

(d) name of every local division of the district to which the Register relates, in which any lands of the estate are situated, with a specification under each local division of

- (i) the number of mouzabs containing such lands,
- (ii) the name of each mouzah,
- (iii) the number which each mouzah bears under the local division in the Mouzahwar Register of the district, and
- (iv) the area of land appertaining to the estate which each mouzah contains, if ascertained by survey or other authentic measurement;

(e) reference to entries made in the Intermediate Register after the preparation of the General Register.

9. The General Register of revenue-free lands shall consist of three Parts—

Part I.—Book of lands held exempt from revenue in perpetuity.

Part II.—Book of lands occupied for public purposes without payment of revenue.

Part III.—Book of unassessed waste lands and other lands not included in Part I or Part II of the General Register of revenue-free lands.

10. In Part I of the General Register of revenue-free lands shall be entered all lands held under badshahi, hukami, and other *ikhraj* grants which have been declared to be valid by competent authority,

all lands in which the Government has conferred a proprietary title free in perpetuity from any demand on account of land revenue, in consideration of the payment of a capitalized sum, or for any other reason,

and any lands of which the Board, on a full report of the circumstances of the case, shall have sanctioned the entry in this part of such Register.

Part I of such Register shall, as far as possible contain the following particulars in respect of each entry:—

- (a) name of the revenue-free property with the character of the tenure, whether jaghir, altungah, devatter, bishanpirit, purchased revenue-free, redeemed, or otherwise;
- (b) date of the grant or title being conferred;
- (c) nominal area granted;
- (d) names of the grantor and original grantee;
- (e) reference to any decree or other order of competent authority declaring or recognizing the grant to be valid;
- (f) names and addresses of the proprietors and managers of the revenue-free property, with the character and extent of the interest of each proprietor and manager;
- (g) name of every local division in which any land appertaining to the property is situated, whether in the District or in any other district, with specification under each local division of
 - (i) the number of mouzabs containing such land,
 - (ii) the name of each mouzah,

(iii) the number which each mouzah bears under the local division in the Mouzahwar Register, and

(iv) the area of land appertaining to the revenue-free property which the mouzah contains, if ascertained by survey or other authentic measurement, with specification of the number of each field according to the papers of such measurement;

(h) reference to entries in earlier Registers relating to the property or any part thereof;

(i) reference to entries made in any Intermediate Register after the preparation of the General Register.

11. In Part II of the General Register of revenue-free lands shall be entered all lands which are occupied by the Government, or by any public body, for public purposes, and on account of which no land revenue is demanded.

It shall contain the following particulars:—

- (a) area of the land comprised in each entry;
- (b) names of the local divisions and mouzabs in which the lands are situated, with area in each mouzah, and a reference to the number under which each mouzah is entered in the Mouzahwar Register of the local division;
- (c) name of the department of Government or of the public body by which the land is occupied;
- (d) the purpose for which it is occupied;
- (e) the date and particulars of the appropriation of the land to such purpose;
- (f) reference to entries in the Intermediate Register made after the preparation of the General Register.

12. In Part III of the General Register of revenue-free lands shall be entered all waste and other lands (not being included in any other part of the General Register) which are not assessed to land revenue. It shall contain the following particulars:—

- (a) name and number of the lot, or other particulars identifying the property;
- (b) area comprised in each entry;
- (c) name of every local division and mouzah in which lands of the property are situated, with area in each mouzah, and a reference to the local division and number under which each mouzah is entered under the local division on the Mouzahwar Register;
- (d) reference to entries in the Intermediate Register made after the preparation of the General Register.

13. If it shall appear to the Board that the circumstances of any District are such that it is not desirable or practicable to prepare the Register of revenue-free lands in the manner described in the three last preceding sections, the Board may direct that the said sections shall not apply to such District, and may lay down rules, not being inconsistent with the provisions of this Act, in respect of the registration of revenue-free lands and of the proprietors and managers thereof, provided that such rules shall require the registration of the name of one or

more persons as liable for the discharge of the duties and obligations referred to in section sixty-eight, in respect of all lands which under such rules may be registered as separate revenue-free properties.

Such rules, when they shall have been sanctioned by the Lieutenant-Governor, and published in the *Calcutta Gazette*, and otherwise locally as the Lieutenant-Governor may order, shall, from such date as the Lieutenant-Governor may direct, have the same force as if they were included in this Act.

14. The Mouzahwar Register shall be kept up for the purpose of showing, in a connected form, the mouzahs situated in each local division, and the lands, whether revenue-paying or revenue-free, of which each mouzah consists.

15. The Mouzahwar Register shall be arranged and divided according to subdivisions, parganahs, thanahs, police jurisdictions, or such other local divisions of the district as the Board may from time to time direct for each district; the entries of mouzahs shall have a separate series of consecutive numbers, and a separate alphabetical arrangement for each local division.

The Mouzahwar Register shall contain the following particulars:—

- (a) name of the mouzah;
- (b) total area of mouzah, if ascertained by survey or other authentic measurement, with a reference to the authority for the entry;
- (c) name of every estate or revenue-free property to which any of the lands of the mouzah appertain, with a reference to the entry of each on the General Register, and a specification of the area of land in the mouzah which appertains to each, if ascertained by survey or other authentic measurement, with a reference to the authority for such entry;
- (d) gross rental of the area of land in the mouzah which appertains to each estate or property, if such rental has been ascertained during management of the lands by the Collector or by other authentic means, with a reference to the authority for the entry;
- (e) reference to entries made in Intermediate Registers after the preparation of the Mouzahwar Register.

16. Intermediate Registers shall be kept up for the purpose of recording therein from time to time changes affecting the entries which stand in the General and Mouzahwar Registers, so that by a reference to them in connection with those Registers correct information up to date on the points recorded may be obtained at any time; also for the purpose of keeping together, as far as possible, in a convenient form, the information which will eventually be required for re-writing the General and Mouzahwar Registers.

17. The Intermediate Register shall consist of two Parts, as follows:—

PART I.—Book of changes affecting entries relating to revenue-paying lands.

PART II.—Book of changes affecting entries relating to revenue-free lands.

18. In Part I of the Intermediate Register Particulars of Part I of shall be recorded in a convenient form all changes in the names of proprietors, managers, and (so far as this Act requires) mortgagees, and in the character or extent of the interest of each such proprietor, manager, and mortgagee, and such other changes affecting any entry standing in the General Register of revenue-paying lands, or any entry in the Mouzahwar Register relating to revenue-paying lands, as cannot conveniently be entered against such entry in the General or the Mouzahwar Register. It shall contain the following particulars:—

- (a) name of the estate affected, with references to the number it bears on the General Register of revenue-paying lands, the number it bears on the revenue-roll, and the amount of revenue for which it is liable;
- (b) references to previous entries in the Intermediate Register relating to the estate;
- (c) particulars of the change, with a reference to the authority under which it is made;
- (d) the numbers borne by the entries in each Part of the General Register of revenue-paying lands, and under each local division in the Mouzahwar Register, which are affected by the change here recorded.

19. In Part II of the Intermediate Register Particulars of Part II of shall be recorded all changes in the names of proprietors and managers of revenue-free properties, and in the character and extent of interest of each such proprietor and manager, and such other changes affecting any entry standing in the General Register of revenue-free lands, or any entry relating to revenue-free lands in the Mouzahwar Register, as cannot conveniently be entered against such entry in the General or the Mouzahwar Register. It shall contain the following particulars:—

- (a) name and character of the revenue-free property to which the lands appertain, and number which it bears in any part of the Register of revenue-free lands;
- (b) reference to previous entries in the Intermediate Register relating to the property;
- (c) particulars of the change, with a reference to the authority under which it is made;
- (d) the numbers borne by the entries in the General Register and under each local division in the Mouzahwar Register which are affected by the change here recorded.

PART III.

OF THE PREPARATION AND MAINTENANCE OF THE REGISTERS.

20. Until the Registers by this Act directed to be prepared are so prepared, the existing Registers now kept up in the office of

Old Registers to be in force till new Registers prepared.

every Collector shall be deemed to be the Registers kept up under this Act, that is to say—

The existing General Register of revenue-paying estates shall be deemed to be the General Register of revenue-paying lands;

The existing Parganah Register (Part II) of revenue-free lands shall be deemed to be the General Register of revenue-free lands, and the Mouzahwar Register in respect of revenue-free lands.

The existing Parganah Register (Part I) of revenue-paying lands shall be deemed to be the Mouzahwar Register in respect of revenue-paying lands.

The existing Register of Intermediate Mutations shall be deemed to be the Intermediate Register of changes affecting entries in the General and Mouzahwar Registers;

And all the provisions of this Act shall, as far as possible, be deemed to be applicable to such Registers, and to the registration therein of the names and interests of proprietors, managers, and mortgagees.

21. The first General Registers and the first Mouzahwar Register under this Act, shall be prepared for each district at such time as the Board may direct from the entries in the existing Registers mentioned in the last preceding section, and from any other authentic information available to the Collector.

22. The Board may order new Registers to be prepared whenever it may think fit, and such Registers shall be prepared from the Registers existing at the time of such order, and from the entries of subsequent changes in the Intermediate Registers, and from any other authentic information available to the Collector; and such additions to, omissions from, and alterations in, the entries as they appeared in the previous Registers shall be made as subsequent changes have rendered necessary; and the authority for every change shall be expressly referred to.

23. Whenever, after the preparation of the General Registers, it may be necessary to bring any estate or revenue-free property on to any Part of such Registers on which such estate or property is not already borne, such estate or property shall be at once brought on to such Part under a new number, in continuation of the last number already borne on such part; and a note referring to such entry shall be made in the place in the General Register in which such estate or property would have appeared according to the alphabetical arrangement mentioned in section five.

24. Whenever, after the preparation of the Mouzahwar Register, it shall be necessary to enter any mouzah under any local division of such Register under which it is not already borne, such mouzah shall be at once brought under the proper local division with a new number, in continuation of the number borne by the last entry under such local division; and a note referring to such entry shall be made in the place in the Mouzahwar Register in which such estate or property would have appeared according to the

alphabetical arrangement mentioned in section fifteen.

25. All new entries made in the General and Mouzahwar Registers after their preparation, as prescribed in the two last preceding sections, shall be made in chronological order.

26. After the General Register of revenue-paying lands shall have been prepared, a note shall from time to time be made on such Register against the estate affected

of every alteration which may be ordered by competent authority, in the amount of revenue assessed on any estate;

of every partition of an estate into two or more estates;

of every change involving the removal of an estate from the part of the Register on which it is borne;

of the redemption of every mortgage in respect of which the name of the mortgagee shall have been entered on the Register;

and in every such note reference shall be made to the authority under which the change was made.

In preparing the Register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand in the Register may be recorded in Part I of the Intermediate Register as provided in section eighteen, and a reference shall be made in the General Register against the estate affected to every entry which may be made in the Intermediate Registers recording any such change.

27. After the General Register of revenue-free lands shall have been prepared, a note shall from time to time be made on such Register against the property affected

of every case in which lands entered as revenue-free may be declared liable to assessment, and assessed by competent authority;

of every partition of a revenue-free property into two or more properties;

of every change involving the removal of a revenue-free property from the Part of the Register on which it is borne;

and in every such note reference shall be made to the authority under which the change was made.

In preparing the Register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand on the Register may be recorded in Part II of the Intermediate Register as provided in section nineteen.

28. Whenever it shall come to the notice of the Collector, after making enquiry, may make change in his Register. Collector that any change has occurred which affects any entry in his Registers, and renders necessary any alteration therein, the Collector, after making such enquiry as may be necessary, shall make such alteration:

Provided that notice shall be given to the recorded proprietors and managers of any estate or revenue-free property before any change is made in any way affecting such estate or property,

and to every person whose name the Collector is about to register as proprietor or manager of any estate or revenue-free property, before such registration is effected; and any objections which may be made to the proposed change or registration shall be duly considered by the Collector before he orders such change or registration to be made.

29. Whenever it shall appear to the Collector in the course of an enquiry made in respect of an application under section thirty-eight or section forty-two, or otherwise, that any person whose name is recorded in the General Register as proprietor or manager, or joint proprietor or joint manager of an estate or revenue-free property, is no longer in possession of any interest in such estate or property as proprietor or manager, and that the names of other persons have been recorded as proprietors or managers of every portion of the interest in respect of which such proprietor's or manager's name was borne on the Register, the Collector may order the name of such person to be struck out from among the recorded proprietors or managers of such estate or property, and, if required, may grant him a certificate to that effect.

Collector may in certain cases order name of proprietor to be struck out of the register.

30. To enable the Collector more effectually to maintain his registers,

(a.) Whenever any competent authority may direct that any estate be transferred from the revenue-roll of one district to that of another, the Collector of the district from the revenue-roll of which the estate is to be transferred, shall transmit to the Collector of the district to the revenue-roll of which the transfer is to be made, a copy of all entries in any of the registers relating to the estate to be so transferred, and entries taken from such copy shall be made in the proper registers of the district to which the transfer is made.

(b.) Whenever the Collector of any district shall make an entry, or any alteration of an entry, in his registers, which will affect any entry required to be made under this Act in any register of another district, such Collector shall transmit to the Collector of such other district copy of such entry as made or as altered, and the Collector to whom such copy is transmitted shall cause the necessary entries, or alteration of entries, to be made in the registers of his district.

(c.) Every proprietor and manager of an estate or revenue-free property in which any new village may be established, whether under the name of tolah, kismat, or any other designation, shall forthwith give notice to the Collector of the establishment of such new village.

Provided that the Board may exempt any district or part of a district from the operation of this clause.

(d.) Every proprietor and manager of an estate or revenue-free property, and any person holding any interest in land, or employed in the management of land, shall be bound, on the requisition of the Collector, to furnish any information required by the Collector for the purpose of preparing, making, or correcting any entry of the particulars specified in sections seven, eight, ten, eleven, twelve, or fifteen, or to show to the satisfaction of the Collector that it is not in his power to furnish the required information.

Such requisition shall be made by a notice to be served in the manner prescribed by section fifty, requiring the production of such information before a date mentioned in such notice.

31. Whoever, being bound by clause (c) of the last preceding section to give notice to the Collector of the establishment of any new village, or under clause (d) of the said section to furnish any information required by the Collector, shall voluntarily or negligently omit to give such notice or furnish such information, or to show to the satisfaction of the Collector that it is not in his power to furnish such information, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees, for such omission, and the Collector may impose such further daily fine as he may think proper, not exceeding fifty rupees, for each day during which such person shall omit to furnish the information required under clause (d) after a date to be fixed by the Collector in a notice warning the person required to furnish such information, that such further daily fine will be imposed.

Such notice shall be served in the manner prescribed by section fifty, and the date fixed by such notice shall not be less than fifteen days after service thereof.

The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed under this section notwithstanding that an appeal against the order imposing such fine may be pending.

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

32. Whenever any Civil Court makes a decree confirming any transfer of proprietary possession which has already been made in any estate or revenue-free property, or gives effect to any decree transferring any such possession, such Court may order the transfer to be registered in the Registers of the Collector, and the Collector shall register such transfer accordingly.

33. All lands which are held without payment of rent, not being a revenue-free property entered in the General Register of revenue-free lands, as prescribed by sections ten, eleven, or twelve, and not being a part of any such property, shall, for the purposes of this Act, be deemed to be a part of the estate within the local boundaries of which they are included; and if they are not included within the local boundaries of any one estate, then to be a part of such neighbouring estate as the Collector shall, by an order under his seal and signature, declare.

34. Whenever it shall appear to the Collector that any lands which are not included in any estate as entered in the existing General Register, should be included in any such estate for the purposes of this Act, the Collector shall cause a notice, addressed to the person who is believed to be in possession of such lands, to

Penalties for failing to give notice or furnish information.

When register may be altered on order of Civil Court.

Lands held without payment of rent deemed to be part of certain estates.

Collector may include any lands in an estate.

be served in the manner prescribed by section fifty, and a general notice to be published as prescribed by section forty-nine, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may think fit to allow.

After the expiration of the said month or other period the Collector shall proceed to enquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said estate for the purposes of this Act.

35. Whenever it shall appear to the Collector that any land which is not entered on the General Register as a separate revenue-free property should be

Collector may register lands as a revenue-free estate and call on proprietor to apply for registration.

entered on the register as such property, he may cause a notice to be served in the manner prescribed by section fifty calling on the person in possession of such land as proprietor or manager to show cause why such land should not be so registered as a revenue-free property, and if, after hearing any objections (which may be preferred within a month of the service of the said notice, or such longer period as the Collector may think fit to allow), and after making such further enquiry as may be necessary, the Collector shall be of opinion that the land should be so registered, he shall enter such land on the General Register as a revenue-free property, and by a notice served as prescribed in section fifty, as well as by a general notice published as prescribed in section forty-nine, shall require every proprietor and manager of such revenue-free property to apply for registration of his name and of the character and extent of his interest as such proprietor or manager, and thereupon every such proprietor and manager shall be deemed, for the purposes of section sixty-eight, to be a person who is required by this Act to apply for the registration of his name; and all the provisions of Part IV of this Act, so far as may be practicable, shall apply to every such person.

Provided that no such proprietor or manager shall be liable to any fine under section sixty-five, until after the expiration of three months from the date on which the last mentioned notice shall have been served.

Provided also that no land shall be entered as a revenue-free property in Part I of the General Register of revenue-free lands until the circumstances of the case shall have been reported to the Board, and until the Board shall have sanctioned such entry.

36. The Board may decide what revenue-free lands shall be included in each revenue-free property to be registered as such under

Board to decide what lands to be included in each revenue-free property.

this Act, and may from time to time direct that lands which are borne on the Register as forming one revenue-free property shall be divided and entered on the Register as forming two or more such properties; and may similarly direct that revenue-free lands which are borne on the Register as forming two or more revenue-free properties shall be united, and entered as forming one revenue-free property.

The Board may also direct that any lands which are improperly borne upon the General Register of revenue free-lands shall be removed from such Register, or shall be omitted from any

new Register of such lands which may be prepared.

37. Whenever it shall appear to the Collector that any land which is not included in any revenue-free property entered in the

Collector may serve notice for inclusion of any lands in a revenue-free property.

existing General Register, should be included in any such property for the purposes of this Act, the Collector may cause a notice to be served on the person believed to be in possession of such lands in the manner prescribed by section fifty, and a general notice to be published as prescribed by section forty-nine, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may allow.

At the expiration of the said month or of such period the Collector shall proceed to enquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said property for the purposes of this Act.

PART IV.

OF THE REGISTRATION AND MUTATION OF NAMES.

38. Every proprietor of an estate or revenue-free property or of any interest therein respectively, being in possession of such estate, property, or interest, at the commencement of this Act,

Proprietor and manager to register within specified time.

every joint proprietor of an estate or revenue-free property being in charge of such estate or property, or of any interest therein respectively, on behalf of the other proprietors thereof, at the commencement of this Act,

and every person being manager of an estate or revenue-free property, or of any interest therein respectively, on behalf of a proprietor thereof, at the commencement of this Act,

shall, if his name and the character and extent of his interest have not already been registered, make application in the manner hereinafter provided for the registration of his name and of the character and extent of his interest as such proprietor, or manager, to the Collector of the district on the General Register of which such estate or property is borne, or to any other officer who may have been empowered by the Collector to receive such application, within such time as the Lieutenant-Governor may fix as hereinafter provided.

39. The Lieutenant-Governor shall, within six months from the commencement of this Act, fix for each district the date or dates before which such proprietors

Lieutenant-Governor may fix date before which proprietor and manager must apply for registration.

and managers, being in possession of estates or revenue-free properties, or of any interest therein respectively at the commencement of this Act, shall be required to apply for registration of their names, and of the character and extent of their interests, under the last preceding section, and may at any time alter any date so fixed, provided that no date so fixed shall be later than five years after the said commencement.

40. The Lieutenant-Governor may in any district, for the purposes of the last preceding section, fix different dates in respect of estates and revenue-free properties, or in

Lieutenant-Governor may fix different dates in respect of different estates.

respect of different classes of estates and revenue-free properties, or in respect of different portions of the district:

Provided that no person shall incur any penalty or disability under this Act for failure to apply for registration of his name as such proprietor or manager as aforesaid, until after the lapse of six months from the date on which the notice prescribed by the next succeeding section shall have been published in respect of his estate or property, or in respect of the class of estates or revenue-free properties within which his estate or property falls, or in respect of the portion of the district in which his estate or revenue-free property is situated.

41. Every date fixed by the Lieutenant-Governor as provided in the two last preceding sections shall be published by a notice in the *Calcutta Gazette*;

and also by notices to be posted up at the Court or office of the Judge, the Magistrate, and the Collector of the district, in respect of which such date is fixed;

at the Court or office of every Munsif, Sub-divisional Officer, and Sub-Registrar of Assurances in such district;

and at every Police Station in such district; and by proclamation to be made by beat of drum at the head-quarters of such district, and in every place in which a sub-divisional office is situated, and in such other places as the Lieutenant-Governor may direct.

The officer in charge of every court, office, and police station at which a notice is required to be posted up under this section, shall certify to the Collector the date on which the notice was so posted up at his court, office, or police station, and the latest date so certified shall be deemed to be the date of publication of the notice for the purposes of the two last preceding sections.

42. Every person succeeding after the commencement of this Act to any proprietary right in any estate or revenue-free property, whether by purchase, inheritance, gift, or otherwise;

every joint proprietor of an estate, or revenue-free property, assuming charge after such commencement of such estate or property, or of any interest therein respectively, on behalf of the other proprietors thereof;

and every person assuming charge after such commencement of any estate or revenue-free property, or of any interest therein respectively, as manager,

shall, within six months from the date of such succession or assumption of charge, make application in the manner hereinafter provided to the Collector of the district on the General Register of which such estate or property is borne, or to any other officer who may have been empowered by such Collector to receive such applications, for registration of his name and of the character and extent of his interest as such proprietor or manager.

43. Notwithstanding anything contained in section thirty-eight or the last preceding section, the Lieutenant-Governor may in any district exempt proprietors and managers of all or any estates which are

liable to pay less than twenty rupees of land revenue annually, and proprietors and managers of all or any revenue-free properties which consist of less than fifty acres of land, from the obligations imposed by this Act in respect of applying for registration of their names, and may at any future time withdraw such exemption and require such proprietors and managers to register their names.

44. Every person who holds a mortgage of any proprietary right in any estate may apply to the Collector for registration of his name as such mortgagee, and of the interest in respect of which he is such mortgagee; and in such application shall specify whether he or the mortgagor is in possession. On receipt of such application the Collector shall proceed, as far as possible, according to the manner hereinafter prescribed in respect of applications for registration as proprietor.

45. Any application for registration under this Act may be presented by the applicant or by some person duly authorized by him in that behalf.

46. If the applicant under section thirty-eight or section forty-two is a joint proprietor in charge as aforesaid, or a manager, he shall in his application specify the name of the person or persons on behalf of whom he is in such charge or on behalf of whom he is manager, and the character and extent of the interest of every such person.

47. If the application under section thirty-eight or section forty-two be for registration of the name of the applicant as manager appointed by the Collector, the Court of Wards, or by any Civil or Criminal Court, the Collector shall register the name of the applicant, on proof being produced to his satisfaction that the applicant has been so appointed to be such manager.

48. If the application be for registration otherwise than as manager appointed as mentioned in the last preceding section, and if it sets forth circumstances which would justify the Collector in registering the name of the person whose name is required to be registered, or if after further enquiry the Collector considers that such circumstances exist, he shall issue a notice requiring all persons who object to the registration of the name of the person whose name is required to be registered, or who dispute the character or extent of the interest in respect of which it is required to be registered, to give in a written statement of their objections, and to appear on a day to be specified in such notice, not being less than one month from the date of the publication thereof.

49. Such notice shall be published by affixing a copy of the same on or at all the following places:—
(a) the zamindari kutchery (if any) of the estate or other place at which the rents are ordinarily received;

(b) some conspicuous place in at least one village appertaining to the estate to which the application relates, and if the estate comprises lands situated in more than one local division.

then in at least one village in each local division containing such lands;

(c) the office or Court of every Collector, Sub-divisional Officer, Judge, and Munsif, within whose jurisdiction, and every police station within the jurisdiction of which any of the lands to which the application relates are known to be situated.

50. If the application alleges that the applicant has acquired possession of the interest in respect of which he applies to be registered by transfer from any living person, a copy of such notice shall be served on the alleged transferor by tendering to the person to whom it may be directed a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person, or to some adult male member of his family; or in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last known place of abode of such person.

In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing such notice may direct.

No fees or other costs shall be payable by the applicant in respect of the service or publication of the notice prescribed by this and the last preceding section.

51. No irregularity or omission in the publication or service of notice as required by the three last preceding sections shall affect the validity of any proceedings under this Act, unless it is proved to the satisfaction of the Collector that some material injury was caused by such irregularity or omission.

52. On the day fixed in the notice issued under section forty-eight, or as soon thereafter as possible, the Collector shall consider any objections which may be advanced, and make such further enquiry as appears necessary to ascertain the truth of the alleged possession of, succession to, or transfer of the estate, revenue-free property, or interest therein, in respect of which registration is applied for; and if it appears to the Collector that the possession exists,

or that the succession or transfer has taken place, and that the applicant has acquired possession in accordance with such succession or transfer, but not otherwise,

the Collector shall order the name of the applicant to be registered in the proper Registers as proprietor or manager of the said estate, revenue-free property, or interest therein.

Provided that any person to whom any proprietary right in an estate has been mortgaged, may be registered as mortgagee, whether he be in actual possession or otherwise.

53. For the purpose of the enquiry mentioned in the last preceding section, and of every enquiry held under this Act, the Collector may summon and enforce the attendance of witnesses and compel them

to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.

54. All costs of any enquiry or proceeding held before the Collector under this Act shall, except as provided in section fifty, be payable by the parties concerned, and the Collector may pass such orders as he shall think fit in respect of the payment of such costs.

55. If the applicant's possession of, succession to, or acquisition by transfer of the extent of interest in respect of which he has applied to be registered, is disputed by or on behalf of any person making a conflicting claim in respect thereof, and if the possession of the applicant in accordance with his application is not proved to the satisfaction of the Collector, the Collector shall determine summarily the right to possession in respect of the interest in dispute, and shall deliver possession accordingly, and shall make the necessary entry in the registers;

or if, in the opinion of the Collector, the dispute be one which can more properly be determined by a Civil Court, the Collector shall refer the matter in dispute to the principal Civil Court of the district for determination as hereinafter provided.

Provided that if the applicant's possession of any extent of interest in accordance with his application be not disputed, or if such possession be proved to the satisfaction of the Collector, the Collector may register the said applicant's name in respect of such extent of interest, and may at the same time make a reference as hereinafter provided to the Civil Court for determination of any dispute as to any further extent of interest in respect of which the applicant has applied to be registered, but in respect of which the right of the applicant to be registered is disputed, and is not proved to the satisfaction of the Collector.

56. In any case of disputed succession to, or acquisition by transfer of, the extent of any interest in respect of which application is made under the last preceding section, the Collector may appoint a receiver to collect the rents of the extent of interest in dispute, and from the sums so collected shall be paid the expenses of management and the revenue due to the Government; and the surplus shall be held in deposit in the Collector's treasury, and shall be paid over to the person who shall be registered by the Collector, or under the order of a Civil Court, in respect of the extent of interest in dispute.

57. Every order of a Collector passed under the first clause of section fifty-five shall be of the same force and effect as an order passed by the Judge under section 4 of Act XIX of 1841 (an Act for the protection of moveable and immoveable property against wrongful possession in cases of successions), determining summarily the right to possession and delivering possession accordingly;

and no proceedings shall be taken by any Civil Court under the said Act in respect of any claim or dispute which has been determined by an order of the Collector as aforesaid.

58. In making a reference to the Civil Court under section fifty-five the Collector shall state for the information of the said Court in writing under his hand

- Procedure on making a reference under section 58.*
- (1) the name of the estate or revenue-free property to which the reference applies, together with the numbers which it bears on the General Register, and (if an estate), on the revenue-roll of the district;
 - (2) the names of all the persons who now stand registered on the General Register as proprietors, managers, or mortgagees of such estate or property, with the character and extent of the interest in respect of which each stands registered;
 - (3) the name of the applicant for registry;
 - (4) the character and extent of the interest in dispute;
 - (5) the circumstances of the case as far as they are before the Collector, and the reasons which have led him to make the reference.

59. On receipt of such reference the said principal Civil Court of the district may either proceed to determine the matter, or may transfer the matter for determination to any other competent Civil Court in the district. The said principal Civil Court, or the Court to which the matter is transferred, shall cite the parties concerned, and give notice of the time at which the matter will be heard; and after expiration of the time so fixed, shall determine summarily the right to possession in respect of the interest in dispute (subject to regular suit), and shall deliver possession accordingly.

60. If it shall appear to the Judge of the Court by which the matter is heard that danger is to be apprehended of the misappropriation or waste of the property before the summary suit can be determined, such Judge may appoint curators for the care of the property, and may exercise all or any of the powers mentioned in sections 5 to 13 (both inclusive) of Act XIX of 1841.

61. The said Court may make such order as it shall think fit with regard to the payment by the parties of the cost of the enquiry and proceedings. *Costs.* Provided that no costs shall be recoverable from the parties on account of the issue of notices citing the parties and fixing a date for the first hearing of the case.

62. The summary decision of the Court under section fifty-nine shall have no other effect than that of settling the actual possession; but for this purpose it shall be final, not subject to any appeal or order for review.

63. The Court shall certify to the Collector its determination as to the right of possession, and the Collector shall thereupon make the necessary entries in the proper Registers.

64. Fees at the following rates shall be levied by the Collector on the registry under this Act of any transfer—

- (1) in the case of revenue-paying lands, one quarter or four annas per centum on the annual revenue payable to Government from the extent of interest transferred;
- (2) in the case of revenue-free lands, two and a half per centum on the amount of the annual produce of the extent of interest transferred, such annual produce being the amount of the rents received and receivable on account of the year preceding the year in which the transfer may be registered;

provided that no fee for the registry of any one transfer shall exceed one hundred rupees.

Such fees shall be levied from the person in whose favor the transfer is registered.

All fees levied under this section shall be carried to the account of Government.

65. Whoever, being required by this Act to apply for the registration of his name and the extent of his interest in any estate or revenue-free property, voluntarily or negligently omits to make such application within the prescribed time, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees for such omission, and to such further daily fine as the Collector may think fit to impose, not exceeding fifty rupees, for each day during which such person shall omit to apply for such registration after a date to be fixed by the Collector in a notice requiring such person to apply for registration.

Such notice shall be served in the manner prescribed in section fifty, and the date before which such person is required to apply for registration shall not be less than one month after service of such notice.

66. The Collector may proceed from time to time to levy any amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending.

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

67. Notwithstanding anything contained in section sixty-five, no fine shall be imposed by the Collector under the said section on any person on the ground that such person has failed to make application for registration of his name within the time fixed by the Lieutenant-Governor under section thirty-nine or forty,

or on the ground that such person has failed to apply for registration of his name within the time prescribed by section forty-two,

if such person shall, at any time after the expiration of the time fixed or prescribed as aforesaid, of his own motion, and otherwise than after the issue of a requisition by the Collector in that behalf, present such application as is required by this Act for the registration of his name, and of the character and extent of his interest.

68. Save as is provided in section 90 of the Code of Criminal Procedure, all the recorded proprietors and managers of an estate or revenue-free property shall be deemed to be jointly and severally liable for the discharge of any duties and obligations which are by any law for the time being in force imposed upon the proprietors of such estate or property;

and all persons who are required by this Act to apply for registration shall, from the date on which the obligation so to register is imposed on them respectively by this Act, be deemed to be liable for the discharge of any duties and obligations which are by any such law as aforesaid imposed upon the proprietors of the estate or property in respect of which they are required to apply for registration respectively.

PART V.

OF THE OPENING OF SEPARATE ACCOUNTS IN RESPECT OF SHARES.

69. Notwithstanding anything contained in Act XI of 1859 (*an Act to improve the law relating to sales of land, &c.*), from the commencement of this Act no separate account shall be opened under the provisions of section 10 or of section 11 of the said Act in respect of the share of any applicant under the said sections otherwise than for a share corresponding with the character and extent of interest in the estate in respect of which such applicant is recorded as proprietor or manager under this Act.

70. When a proprietor of a joint estate who is recorded as proprietor of an undivided interest held in common tenancy in any specific portion of the land of the estate, but not extending over the whole estate, desires to pay separately the share of the Government revenue which is due in respect of such interest, he may submit to the Collector a written application to that effect. The application must contain a specification of the land in which he holds such undivided interest and of the boundaries and extent thereof, together with a statement of the amount of Government revenue heretofore paid on account of such undivided interest. On the receipt of this application the Collector shall cause it to be published in the manner prescribed for publication of notice in section 10 of Act XI of 1859.

In the event of no objection being urged by any recorded co-sharer within six weeks from the

time of publication, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it.

The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

71. Section 12 of the said Act XI of 1859 shall apply to every application made under the last preceding section; and the effect and consequences of opening a separate account under the last preceding section shall be such and the same as are described in section 13 and in section 14 of Act XI of 1859.

72. Whenever any share in respect of which a separate account has been opened by the Collector under section 10 or section 11 of the said Act XI of 1859, or under section seventy, shall no longer correspond with the character and extent of interest held in the estate by any one proprietor or manager, or jointly by two or more proprietors or managers, any proprietor or manager whose name is borne on the General Register under this Act as proprietor or manager of any interest in the share in respect of which such separate account is open, may submit to the Collector a written application setting out the circumstances under which such share no longer corresponds with the extent of interest held in the estate by any recorded proprietor or manager, or jointly by two or more recorded proprietors or managers, and specifying the manner in which such share has become broken up and distributed among the proprietors of the estate, and praying that the separate account standing open in respect of such share shall be closed, and, if he so desire, praying that another separate account be opened in respect of any other share or shares which were wholly or partly included in the share in respect of which the previous separate account was open.

Illustration.

In a certain estate separate accounts have been opened under section 10 of Act XI of 1859 for the 4 annas share of A, and also for the 5 annas share of B, the accounts of the remaining 7 annas share being kept jointly in the names of the remaining proprietors C, D, and E.

In course of time X has inherited A's 4 annas share, and also C's interest in the 7 annas share, which amounted to 3 annas; X has also acquired by purchase 2 annas out of B's 5 annas share, so that the interests in the estate are now distributed as follows:—

X	...	9 annas.
B	...	3 "
D & E	...	4 "

X, if a recorded proprietor of the estate, may apply to the Collector to close the separate account which is open in respect of A's 4 annas share, and also the separate account which is open in respect of B's 5 annas share, as neither of these shares corresponds with the extent of interest held by any one proprietor, or held jointly by two or more proprietors in the estate;

and in the same application X may apply for the opening of a separate account in respect of the 9 annas share which he now holds.

Any of the other proprietors might also make a similar application.

73. On receipt of such application the Collector shall cause a copy of the same to be published in the manner provided in section 10 of Act XI of 1859; and if within six weeks from the date of such publication no objection is made by any other recorded proprietor of the estate, the Collector shall close the separate account which then stands open, and shall open a separate account with the applicant as required by him, under section 10, or section 11 of Act XI of 1859, or under section seventy, as the case may be.

74. If any recorded proprietor of the estate, Procedure in case of objection. in common tenancy or otherwise, object that the share in respect of which any separate account is open as aforesaid has not been broken up, and does still correspond with the character and extent of interest held by any one proprietor or manager, or jointly by two or more proprietors or managers,

or object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him,

or (when the application is in respect of a specific portion of the land of an estate or in respect of an undivided interest held in common tenancy in any specific portion of the land of the estate), object that the amount of Government revenue stated by the applicant to have been heretofore paid on account of such portion of land, or on account of the applicant's undivided interest therein, is not the amount which has been recognized by the other sharers as the Government revenue thereof,

the Collector shall refer the parties to the Civil Court, and shall suspend proceedings until the question at issue is judicially determined.

PART VI.

MISCELLANEOUS.

75. The Collector shall supply an extract from any Register mentioned in this Act to any person who may apply for the same, subject to the payment of such fees for searching and copying as may be prescribed by the Board.

76. If in any district any Register prescribed by this Act has not been prepared and kept up in the vernacular language and character of the district, the Collector shall be bound, together with any English extract which may be furnished under the last preceding section, to furnish a translation of the same in the vernacular language and written in the vernacular character of such district to any one who may demand such translation, and no further charge shall be made in respect of the furnishing of such translation than might have been charged in respect of the English extract furnished under the said section.

77. Whenever any change shall be made by order of competent authority in the names of the recorded proprietors or managers of any estate or revenue-free property, or in the character or extent of the interest of any such proprietor or manager as entered in any register mentioned in this Act, so soon as the order under which such change in the entry may have been made shall have been confirmed on appeal, or so soon as the period for presenting an appeal against such order shall have expired without the presentation of an appeal, the Collector shall cause a notice of such change to be posted up at his office, at the office of every sub-divisional officer within whose jurisdiction any lands of the estate or revenue-free property concerned are situated, and at such places as he may think fit on the estate or property; and every such notice shall set out the name of every proprietor and manager of the estate or revenue-free property concerned, and the character and extent of the interest of every such proprietor and manager as it stands recorded on the General Register on the date of the issue of the notice.

78. No person shall be bound to pay rent to any person claiming such rent as proprietor, or manager, of an estate or revenue-free property in respect of which he is required by this Act to cause his name to be registered, or as mortgagee, unless the name of such claimant shall have been registered under this Act;

and no person being liable to pay rent to two or more such proprietors, managers, or mortgagees holding in common tenancy, shall be bound to pay to any one such proprietor, manager, or mortgagee more than the amount which bears the same proportion to the whole of such rent, as the extent of the interest in respect of which such proprietor, manager, or mortgagee is registered, bears to the entire estate or revenue-free property.

79. The receipt of any proprietor, manager, or mortgagee, whose name and the extent of whose interest is registered under this Act, shall afford full indemnity to any person paying rent to such proprietor, manager, or mortgagee.

80. Whenever any sum of money shall be payable by the Collector to the proprietors of any estate or revenue-free property jointly (otherwise than under the Land Acquisition Act, 1870), the Collector may pay to any one or more recorded proprietors or managers thereof respectively, such portion of the said sum as may be proportionate to the extent of the interest in respect of which each such proprietor or manager is registered, and the receipt of each such proprietor or manager shall afford full indemnity to the Collector in respect of any sum so paid.

81. Nothing contained in the three last preceding sections shall be held to interfere with the conditions of any written contract, or to prevent any person deeming himself entitled to any sum of money from recovering such sum by due process of law from any other person who has received the same.

82. Every amount which may become due to the Collector under the provisions of this Act in respect of any expenses incurred, of any fees payable, of any notices served, of any costs payable by any party, or of any fines imposed, shall be deemed to be a demand under section 1 of Bengal Act VII of 1868 (an Act to make further provision for the recovery of arrears of land revenue and public demands recoverable as arrears of land revenue) and shall be leviable as such.

83. The Collector may by a notice require the proprietor or manager of any estate or revenue-free property to name such estate or property by a distinctive name, and in case of failure of such proprietor or manager to comply with the requisition within the time fixed by the Collector, may name such estate or property.

84. The Collector may, by a special or a general order, delegate to any Assistant Collector, Deputy Collector, or Sub-Deputy Collector the performance of any duty and the exercise of any function which the Collector is required or empowered to perform or exercise under this Act, except in respect of appeals;

and any Assistant, Deputy, or Sub-Deputy Collector to whom any duty or function is so delegated may exercise all the powers of a Collector under this Act, except in respect of appeals.

85. Every order passed under this Act by any revenue officer below the rank of the Collector of the District (not being an officer specially vested with appellate powers as hereinafter mentioned) shall be appealable to the Collector of the District, or to any officer who may have been specially vested by the Government with special appellate powers in this behalf,

and there shall be no further appeal from any order so passed in appeal confirming the order appealed against,

but an appeal shall lie to the Commissioner of the Division against every order so passed in appeal which modifies or reverses the order appealed against.

Every order passed by the Collector of the District, or by any officer specially vested with appellate powers as aforesaid, being passed otherwise than on appeal from the order of another officer, shall be appealable to the Commissioner of the Division.

Every appeal to the Collector shall be presented within fifteen days of the date of the order appealed against;

and every appeal to the Commissioner shall be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the order appealed against;

and every appeal presented after the lapse of the time fixed by this section may be summarily rejected, unless sufficient cause shall be shown to the satisfaction of the appellate authority for admitting the appeal after the lapse of such time.

Every order passed by any officer subordinate to a Commissioner shall be subject at any time to revision and modification by such Commissioner;

and every order passed by any such officer or by such Commissioner shall be subject at any time to revision and modification by the Board.

86. In computing the period of limitation prescribed for an appeal, the day on which the order complained of was made, and the time requisite for obtaining a copy of the same shall be excluded.

87. The Lieutenant-Governor may from time to time vest any officer other than the Collector of the District with special appellate powers under this Act; and every officer so vested shall be competent to hear and decide any appeal which the Collector of the District is competent to hear and decide under this Act.

88. Within four months of the date on which this Act comes into force, the Board shall make general Rules consistent with this Act to regulate—

the form in which Registers under this Act are to be kept;

the procedure as to the presentation, admission, and verification of applications for registration under Part IV, and as to inquiries under section fifty-two,

and generally for the purposes of this Act.

The Board may from time to time cancel or alter any such rules.

89. Nothing contained in this Act, and nothing done in accordance with this Act, shall be deemed to—

(a) preclude any person from bringing a regular suit for possession of, or for a declaration of right to, any immovable property to which he may deem himself entitled;

(b) render the entry of any land in the Registers under this Act as revenue-free an admission on the part of Government of the right of the person in whose name such land may be entered, or an admission of the validity of the title under which the said land is held revenue-free;

(c) affect the rights of the Government or of any person in respect of any immovable property or of any interest, except as otherwise expressly provided herein.

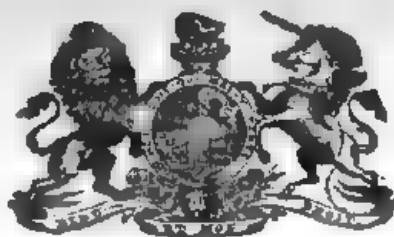
SCHEDULE OF REGULATIONS REPEALED.

See Section 2.

Number and year.	Subject or abbreviated Title.	Extent of Repeal.
XIX of 1793	Non-badshahi lakhiraj grants...	Sections twenty-one, twenty-two, twenty-nine to thirty-four; sections thirty-six to forty-one; so much of sections forty-two and forty-three as has not been repealed, sections forty-four to forty-six, all inclusive.
XXXVII of 1798	Badshahi lakhiraj grants ...	Sections sixteen to eighteen, twenty-four, twenty-six to twenty-nine; thirty-one to thirty-three, thirty-five, thirty-six; so much of section thirty-seven as has not been repealed, section thirty-eight, so much of section thirty-nine as has not been repealed, sections forty to forty-one, all inclusive.
XLVIII of 1793	A Regulation for forming a quinquennial register, &c.	So much as has not been repealed.
LVIII of 1795	Granting to the Collectors a commission on the jumma of certain lands.	So much as has not been repealed.
XV of 1797	Levying Fees, &c. ...	The whole.
VIII of 1800	Pergunnah Register ...	So much as has not been repealed, except section nineteen.

FREDERICK CLARKE,

Offg. Asst. Secy. to the Govt. of Bengal, Legislative Dept.



The Calcutta Gazette.

WEDNESDAY, AUGUST 30, 1876.

PART III.

Act of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 22nd July 1876, and having been assented to by the Governor-General on the 9th August 1876, is hereby published for general information:—

Act No. VII of 1876.

Act to provide for the Registration of revenue-paying and revenue-free lands, and of the proprietors and managers thereof.

Whereas it is expedient to make better provision for the preparation and maintenance of Registers of revenue-paying and revenue-free lands, of the proprietors and managers thereof, and of certain mortgages of revenue paying lands: Therefore enacted as follows:—

PART I.

PRELIMINARY.

This Act may be called the "Land Registration Act, 1876," and it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General, which date is hereinafter referred to as the commencement of this Act.

From the commencement of this Act, the Regulations mentioned in the schedule hereto annexed, so far as they are not inconsistent with the provisions of this Act, shall have effect in the Provinces subject to the Lieutenant-Governor of Bengal.

3. In this Act—unless there be something repugnant in the subject or context—

Interpretation clause.

(1) "Civil Court" means any Civil Court which is competent to hear and determine the matter with respect to which the words are used:

"Estate."

(2) "Estate" includes

(a) any land subject to the payment of land revenue, either immediately or prospectively, for the discharge of which a separate engagement has been entered into with Government:

(b) any land which is entered on the revenue-roll as separately assessed with land revenue (whether the amount of such assessment be payable immediately or prospectively), although no engagement has been entered into with Government for the amount of revenue so separately assessed upon it as a whole:

(c) any land being the property of Government of which the Board shall have directed the separate entry on the General Register hereinafter mentioned.

(3) "Extent of interest" means the share or interest in an estate or revenue-free property of which

the person with respect to whom the words are used is in possession as proprietor or manager.

(4) "Lieutenant-Governor" means the Lieutenant-Governor of Bengal for the time being, or the person acting in that capacity:

(5) "Local Division" means a sub-division, parganah, thanah, police division of jurisdiction, or other division according to which the Mouzahwar Register of the district is arranged:

(6) "Manager" means every person who is appointed by the Collector, the Court of Wards, or by

any Civil or Criminal Court to manage any estate or revenue-free property or any part thereof, and every person who is in charge of an estate or revenue-free property or any part thereof on behalf of a minor, idiot, or lunatic, or on behalf of a religious or charitable foundation.

(7) "Mouzah" includes every village, hamlet, tolah, and other similar sub-division of land commonly in use in any district, by whatever name such sub-division may be known:

(8) "Proprietor" means every person being in possession of an estate or revenue-free property, or of any interest in an estate or revenue-free property, as owner thereof; and includes every farmer and lessee who holds an estate or revenue-free property directly from or under the Collector:

(9) "Recorded proprietor" means any proprietor whose name and the character and extent of whose interest in an estate or revenue-free property stands registered in any General Register now existing, or hereafter to be made under this Act.

(10) "Revenue-free property" means any land not subject to the payment of land revenue, which is included under one entry in any part of the General Register of revenue-free lands:

(11) "Section" means a section of this Act:

(12) "The Board" means the Board of Revenue of the Provinces for the time being subject to the Lieutenant-Governor of Bengal:

(13) "The Collector" means the Collector of the District to which a register relates:

(14) "The District" means the District to which a Register relates.

PART II.

OF THE REGISTERS TO BE KEPT UP BY THE COLLECTOR.

4. The Collector of every district shall prepare and keep up the following Registers:—

- A.—A General Register of revenue-paying lands.
- B.—A General Register of revenue-free lands.
- C.—A Mouzahwar Register of all lands revenue-paying and revenue-free.
- D.—An Intermediate Register of changes affecting entries in the General and Mouzahwar Registers.

5. The Registers shall be written in such forms, language, and character, and shall be arranged in such manner, not being inconsistent with the provisions of this Act, as the Board from time to time may direct for each district.

The entries in each Part of the General Register shall be numbered in one consecutive series for the whole District, and shall follow one alphabetical arrangement, running from the beginning to the end of the Part.

6. The General Register of revenue-paying lands shall consist of two Parts:—

Part I.—Book of estates borne on the revenue-roll of the District.

Part II.—Book of lands situated in the District appertaining to estates borne on the revenue-rolls of other districts.

7. In Part I of the General Register of revenue-paying lands shall be entered the name of every estate which is borne on the revenue-roll of the District, and the following particulars relating to every such estate:—

- (a) name of the estate;
- (b) number of the estate on the revenue-roll of the District, and the annual amount of revenue for which it is liable;
- (c) names and addresses of the proprietors, managers, and mortgagees of the estate with the character and extent of the interest of each proprietor, manager, and mortgagee;
- (d) name of every local division in which lands of the estate are situated, with the name of the local division in the district, or in any other district, with specification under each local division of
 - (i) the number of mouzahs contained in such lands,
 - (ii) the name of each mouzah,
 - (iii) the number which each mouzah bears under the local division in the Mouzahwar Register, and
 - (iv) the area of land appertaining to the estate which each mouzah contains, if ascertained by survey or by authentic measurement;
- (e) reference to entries made in the Intermediate Register after the preparation of the General Register.

8. In Part II of the General Register of revenue-paying lands shall be entered the name of every estate which comprises lands situated in the district, but which is borne on the revenue-roll of some other district, and the following particulars relating to every such estate:—

- (a) name of the estate;
- (b) name of the district on the revenue-roll of which the estate is borne, with the number which the estate bears on the revenue-roll, the annual amount of revenue for which it is liable, and the number which the estate bears in Part I of the General Register of revenue-paying lands in its own district;
- (c) names and addresses of the proprietors, managers, or mortgagees of the estate with the character and extent of the interest of each proprietor, manager, and mortgagee;

(d). name of every local division of the district to which the Register relates, in which any lands of the estate are situated, with a specification under each local division of

- (i) the number of mouzabs containing such lands,
- (ii) the name of each mouzah,
- (iii) the number which each mouzah bears under the local division in the Mouzahwar Register of the district, and
- (iv) the area of land appertaining to the estate which each mouzah contains, if ascertained by survey or other authentic measurement;

(e) reference to entries made in the Intermediate Register after the preparation of the General Register.

9. The General Register of revenue-free lands shall consist of three Parts—

Part I.—Book of lands held exempt from revenue in perpetuity.

Part II.—Book of lands occupied for public purposes without payment of revenue.

Part III.—Book of unassessed waste lands and other lands not included in Part I or Part II of the General Register of revenue-free lands.

10. In Part I of the General Register of revenue-free lands shall be entered all lands held under badshahi, hukami, and other lakhiraj grants which have been declared to be valid by competent authority.

all lands in which the Government has conferred a proprietary title free in perpetuity from any demand on account of land revenue, in consideration of the payment of a capitalized sum, or for any other reason,

and any lands of which the Board, on a full report of the circumstances of the case, shall have sanctioned the entry in this part of such Register.

Part I of such Register shall, as far as possible contain the following particulars in respect of each entry:—

- (a) name of the revenue-free property with the character of the tenure, whether jaghir, altumgah, devatter, bishanpiri, purchased revenue-free, redeemed, or otherwise;
- (b) date of the grant or title being conferred;
- (c) nominal area granted;
- (d) names of the grantor and original grantee;
- (e) reference to any decree or other order of competent authority declaring or recognizing the grant to be valid;
- (f) names and addresses of the proprietors and managers of the revenue-free property, with the character and extent of the interest of each proprietor and manager;
- (g) name of every local division in which any land appertaining to the property is situated, whether in the District or in any other district, with specification under each local division of
 - (i) the number of mouzabs containing such land,
 - (ii) the name of each mouzah,

(iii) the number which each mouzah bears under the local division in the Mouzahwar Register, and

(iv) the area of land appertaining to the revenue-free property which the mouzah contains, if ascertained by survey or other authentic measurement, with specification of the number of each field according to the papers of such measurement;

(h) reference to entries in earlier Registers relating to the property or any part thereof;

(i) reference to entries made in any Intermediate Register after the preparation of the General Register.

11. In Part II of the General Register of revenue-free lands shall be entered all lands which are occupied by the Government, or by any public body, for public purposes, and on account of which no land revenue is demanded.

It shall contain the following particulars:—

- (a) area of the land comprised in each entry;
- (b) names of the local divisions and mouzabs in which the lands are situated, with area in each mouzah, and a reference to the number under which each mouzah is entered in the Mouzahwar Register of the local division;
- (c) name of the department of Government or of the public body by which the land is occupied;
- (d) the purpose for which it is occupied;
- (e) the date and particulars of the appropriation of the land to such purpose;
- (f) reference to entries in the Intermediate Register made after the preparation of the General Register.

12. In Part III of the General Register of revenue-free lands shall be entered all waste and other lands (not being included in any other part of the General Register) which are not assessed to land revenue. It shall contain the following particulars:—

- (a) name and number of the lot, or other particulars identifying the property;
- (b) area comprised in each entry;
- (c) name of every local division and mouzah in which lands of the property are situated, with area in each mouzah, and a reference to the local division and number under which each mouzah is entered under the local division on the Mouzahwar Register;
- (d) reference to entries in the Intermediate Register made after the preparation of the General Register.

13. If it shall appear to the Board that the circumstances of any District are such that it is not desirable or practicable to prepare the Register of revenue-free lands in the manner described in the three last preceding sections, the Board may direct that the said sections shall not apply to such District, and may lay down rules, not being inconsistent with the provisions of this Act, in respect of the registration of revenue-free lands and of the proprietors and managers thereof, provided that such rules shall require the registration of the name of one or

more persons as liable for the discharge of the duties and obligations referred to in section sixty-eight, in respect of all lands which under such rules may be registered as separate revenue-free properties.

Such rules, when they shall have been sanctioned by the Lieutenant-Governor, and published in the *Calcutta Gazette*, and otherwise locally as the Lieutenant-Governor may order, shall, from such date as the Lieutenant-Governor may direct, have the same force as if they were included in this Act.

14. The Mouzahwar Register shall be kept up for the purpose of showing, in a connected form, the mouzabs situated in each local division, and the lands, whether revenue-paying or revenue-free, of which each mouzah consists.

15. The Mouzahwar Register shall be arranged and divided according to subdivisions, parganahs, thanahs, police jurisdictions, or such other local divisions of the district as the Board may from time to time direct for each district; the entries of mouzabs shall have a separate series of consecutive numbers, and a separate alphabetical arrangement for each local division.

The Mouzahwar Register shall contain the following particulars:—

- (a) name of the mouzah;
- (b) total area of mouzah, if ascertained by survey or other authentic measurement, with a reference to the authority for the entry;
- (c) name of every estate or revenue-free property to which any of the lands of the mouzah appertain, with a reference to the entry of each on the General Register, and a specification of the area of land in the mouzah which appertains to each, if ascertained by survey or other authentic measurement, with a reference to the authority for such entry;
- (d) gross rental of the area of land in the mouzah which appertains to each estate or property, if such rental has been ascertained during management of the lands by the Collector or by other authentic means, with a reference to the authority for the entry;
- (e) reference to entries made in Intermediate Registers after the preparation of the Mouzahwar Register.

16. Intermediate Registers shall be kept up for the purpose of recording therein from time to time changes affecting the entries which stand in the General and Mouzahwar Registers, so that by a reference to them in connection with those Registers correct information up to date on the points recorded may be obtained at any time; also for the purpose of keeping together, as far as possible, in a convenient form, the information which will eventually be required for re-writing the General and Mouzahwar Registers.

17. The Intermediate Register shall consist of two Parts, as follows:—

PART I.—Book of changes affecting entries relating to revenue-paying lands.

PART II.—Book of changes affecting entries relating to revenue-free lands.

18. In Part I of the Intermediate Register shall be recorded in a convenient form all changes in the names of proprietors, managers, and (so far as this Act requires) mortgagees, and in the character or extent of the interest of each such proprietor, manager, and mortgagee, and such other changes affecting any entry standing in the General Register of revenue-paying lands, or any entry in the Mouzahwar Register relating to revenue-paying lands, as cannot conveniently be entered against such entry in the General or the Mouzahwar Register. It shall contain the following particulars:—

- (a) name of the estate affected, with references to the number it bears on the General Register of revenue-paying lands, the number it bears on the revenue-roll, and the amount of revenue for which it is liable;
- (b) references to previous entries in the Intermediate Register relating to the estate;
- (c) particulars of the change, with a reference to the authority under which it is made;
- (d) the numbers borne by the entries in each Part of the General Register of revenue-paying lands, and under each local division in the Mouzahwar Register, which are affected by the change here recorded.

19. In Part II of the Intermediate Register shall be recorded all changes in the names of proprietors and managers of revenue-free properties, and in the character and extent of interest of each such proprietor and manager, and such other changes affecting any entry standing in the General Register of revenue-free lands, or any entry relating to revenue-free lands in the Mouzahwar Register, as cannot conveniently be entered against such entry in the General or the Mouzahwar Register. It shall contain the following particulars:—

- (a) name and character of the revenue-free property to which the lands appertain, and number which it bears in any part of the Register of revenue-free lands;
- (b) reference to previous entries in the Intermediate Register relating to the property;
- (c) particulars of the change, with a reference to the authority under which it is made;
- (d) the numbers borne by the entries in the General Register and under each local division in the Mouzahwar Register which are affected by the change here recorded.

PART III.

OF THE PREPARATION AND MAINTENANCE OF THE REGISTERS.

20. Until the Registers by this Act directed to be prepared are so prepared, the existing Registers now kept up in the office of

Old Registers to be in force till new Registers prepared.

every Collector shall be deemed to be the Register kept up under this Act, that is to say—

The existing General Register of revenue-paying estates shall be deemed to be the General Register of revenue-paying lands;

The existing Parganah Register (Part II) of revenue-free lands shall be deemed to be the General Register of revenue-free lands, and the Mouzahwar Register in respect of revenue-free lands.

The existing Parganah Register (Part I) of revenue-paying lands shall be deemed to be the Mouzahwar Register in respect of revenue-paying lands.

The existing Register of Intermediate Mutations shall be deemed to be the Intermediate Register of changes affecting entries in the General and Mouzahwar Registers;

And all the provisions of this Act shall, as far as possible, be deemed to be applicable to such Registers, and to the registration therein of the names and interests of proprietors, managers and mortgagees.

21. The first General Registers and the first Mouzahwar Register under this Act, shall be prepared for each district at such time as the Board may direct from the entries in the existing Registers mentioned in the last preceding section, and from any other authentic information available to the Collector.

22. The Board may order new Registers to be prepared whenever it may think fit, and such Registers shall be prepared from the Registers existing at the time of such order, and from the entries of subsequent changes in the Intermediate Registers, and from any other authentic information available to the Collector; and such additions to, omissions from, and alterations in, the entries as they appeared in the previous Registers shall be made as subsequent changes have rendered necessary; and the authority for every change shall be expressly referred to.

23. Whenever, after the preparation of the General Registers, it may be necessary to bring any estate or revenue-free property on to any Part of such Registers on which such estate or property is not already borne, such estate or property shall be at once brought on to such Part under a new number, in continuation of the last number already borne on such part; and a note referring to such entry shall be made in the place in the General Register in which such estate or property would have appeared according to the alphabetical arrangement mentioned in section five.

24. Whenever, after the preparation of the Mouzahwar Register, it shall be necessary to enter any mouzah under any local division of such Register under which it is not already borne, such mouzah shall be at once brought under the proper local division with a new number, in continuation of the number borne by the last entry under such local division; and a note referring to such entry shall be made in the place in the Mouzahwar Register in which such estate or property would have appeared according to the

alphabetical arrangement mentioned in section fifteen.

25. All new entries made in the General and Mouzahwar Registers after their preparation, as prescribed in the two last preceding sections, shall be made in chronological order.

26. After the General Register of revenue-paying lands shall have been prepared, a note shall from time to time be made on such Register against the estate affected

of every alteration which may be ordered by competent authority, in the amount of revenue assessed on any estate;

of every partition of an estate into two or more estates;

of every change involving the removal of an estate from the part of the Register on which it is borne;

of the redemption of every mortgage in respect of which the name of the mortgagee shall have been entered on the Register;

and in every such note reference shall be made to the authority under which the change was made.

In preparing the Register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand in the Register may be recorded in Part I of the Intermediate Register as provided in section eighteen, and a reference shall be made in the General Register against the estate affected to every entry which may be made in the Intermediate Registers recording any such change.

27. After the General Register of revenue-free lands shall have been prepared, a note shall from time to time be made on such Register against the property affected

of every case in which lands entered as revenue-free may be declared liable to assessment, and assessed by competent authority;

of every partition of a revenue-free property into two or more properties;

of every change involving the removal of a revenue-free property from the Part of the Register on which it is borne;

and in every such note reference shall be made to the authority under which the change was made.

In preparing the Register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand on the Register may be recorded in Part II of the Intermediate Register as provided in section nineteen.

28. Whenever it shall come to the notice of the Collector, after making enquiry, may make change in his Register. Collector that any change has occurred which affects any entry in his Registers, and renders necessary any alteration therein, the Collector, after making such enquiry as may be necessary, shall make such alteration:

Provided that notice shall be given to the recorded proprietors and managers of any estate or revenue-free property before any change is made in any way affecting such estate or property,

and to every person whose name the Collector is about to register as proprietor or manager of any estate or revenue-free property, before such registration is effected; and any objections which may be made to the proposed change or registration shall be duly considered by the Collector before he orders such change or registration to be made.

29. Whenever it shall appear to the Collector in the course of an enquiry made in respect of an application under section thirty-eight or section forty-two, or otherwise, that any person whose name is recorded in the General Register as proprietor or manager, or joint proprietor or joint manager of an estate or revenue-free property, is no longer in possession of any interest in such estate or property as proprietor or manager, and that the names of other persons have been recorded as proprietors or managers of every portion of the interest in respect of which such proprietor's or manager's name was borne on the Register, the Collector may order the name of such person to be struck out from among the recorded proprietors or managers of such estate or property, and, if required, may grant him a certificate to that effect.

Collector may in certain cases order name of proprietor to be struck out of the register.

30. To enable the Collector more effectually to maintain his registers,

(a.) Whenever any competent authority may direct that any estate be transferred from the revenue-roll of one district to that of another, the Collector of the district from the revenue-roll of which the estate is to be transferred, shall transmit to the Collector of the district to the revenue-roll of which the transfer is to be made, a copy of all entries in any of the registers relating to the estate to be so transferred, and entries taken from such copy shall be made in the proper registers of the district to which the transfer is made.

(b.) Whenever the Collector of any district shall make an entry, or any alteration of an entry, in his registers, which will affect any entry required to be made under this Act in any register of another district, such Collector shall transmit to the Collector of such other district copy of such entry as made or as altered, and the Collector to whom such copy is transmitted shall cause the necessary entries, or alteration of entries, to be made in the registers of his district.

(c.) Every proprietor and manager of an estate or revenue-free property in which any new village may be established, whether under the name of tolah, kismat, or any other designation, shall forthwith give notice to the Collector of the establishment of such new village.

Provided that the Board may exempt any district or part of a district from the operation of this clause.

(d.) Every proprietor and manager of an estate or revenue-free property, and any person holding any interest in land, or employed in the management of land, shall be bound, on the requisition of the Collector, to furnish any information required by the Collector for the purpose of preparing, making, or correcting any entry of the particulars specified in sections seven, eight, ten, eleven, twelve, or fifteen, or to show to the satisfaction of the Collector that it is not in his power to furnish the required information.

Such requisition shall be made by a notice to be served in the manner prescribed by section fifty, requiring the production of such information before a date mentioned in such notice.

31. Whoever, being bound by clause (c) of the last preceding section to give notice to the Collector of the establishment of any new village, or under clause (d) of the said section to furnish any information required by the Collector, shall voluntarily or negligently omit to give such notice or furnish such information, or to show to the satisfaction of the Collector that it is not in his power to furnish such information, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees, for such omission, and the Collector may impose such further daily fine as he may think proper, not exceeding fifty rupees, for each day during which such person shall omit to furnish the information required under clause (d) after a date to be fixed by the Collector in a notice warning the person required to furnish such information, that such further daily fine will be imposed.

Such notice shall be served in the manner prescribed by section fifty, and the date fixed by such notice shall not be less than fifteen days after service thereof.

The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed under this section notwithstanding that an appeal against the order imposing such fine may be pending.

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

32. Whenever any Civil Court makes a decree confirming any transfer of proprietary possession which has already been made in any estate or revenue-free property, or gives effect to any decree transferring any such possession, such Court may order the transfer to be registered in the Registers of the Collector, and the Collector shall register such transfer accordingly.

33. All lands which are held without payment of rent, not being a revenue-free property entered in the General Register of revenue-free lands, as prescribed by sections ten, eleven, or twelve, and not being a part of any such property, shall, for the purposes of this Act, be deemed to be a part of the estate within the local boundaries of which they are included; and if they are not included within the local boundaries of any one estate, then to be a part of such neighbouring estate as the Collector shall, by an order under his seal and signature, declare.

34. Whenever it shall appear to the Collector that any lands which are not included in any estate as entered in the existing General Register, should be included in any such estate for the purposes of this Act, the Collector shall cause a notice, addressed to the person who is believed to be in possession of such lands, to

Penalties for failing to give notice or furnish information.

When register may be altered on order of Civil Court.

Lands held without payment of rent deemed to be part of certain estates.

Collector may include any lands in an estate.

be served in the manner prescribed by section fifty, and a general notice to be published as prescribed by section forty-nine, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may think fit to allow.

After the expiration of the said month or other period the Collector shall proceed to enquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said estate for the purposes of this Act.

35. Whenever it shall appear to the Collector that any land which is not entered on the General Register as a separate revenue-free property should be entered on the register as such property, he may cause a notice to be served in the manner prescribed by section fifty calling on the person in possession of such land as proprietor or manager to show cause why such land should not be so registered as a revenue-free property, and if, after hearing any objections (which may be preferred within a month of the service of the said notice, or such longer period as the Collector may think fit to allow), and after making such further enquiry as may be necessary, the Collector shall be of opinion that the land should be so registered, he shall enter such land on the General Register as a revenue-free property, and by a notice served as prescribed in section fifty, as well as by a general notice published as prescribed in section forty-nine, shall require every proprietor and manager of such revenue-free property to apply for registration of his name and of the character and extent of his interest as such proprietor or manager, and thereupon every such proprietor and manager shall be deemed, for the purposes of section sixty-eight, to be a person who is required by this Act to apply for the registration of his name; and all the provisions of Part IV of this Act, so far as may be practicable, shall apply to every such person.

Provided that no such proprietor or manager shall be liable to any fine under section sixty-five, until after the expiration of three months from the date on which the last mentioned notice shall have been served.

Provided also that no land shall be entered as a revenue-free property in Part I of the General Register of revenue-free lands until the circumstances of the case shall have been reported to the Board, and until the Board shall have sanctioned such entry.

36. The Board may decide what revenue-free lands shall be included in each revenue-free property to be registered as such under this Act, and may from time to time direct that lands which are borne on the Register as forming one revenue-free property shall be divided and entered on the Register as forming two or more such properties; and may similarly direct that revenue-free lands which are borne on the Register as forming two or more revenue-free properties shall be united, and entered as forming one revenue-free property.

The Board may also direct that any lands which are improperly borne upon the General Register of revenue-free lands shall be removed from such Register, or shall be omitted from any

new Register of such lands which may be prepared.

37. Whenever it shall appear to the Collector that any land which is not included in any revenue-free property entered in the existing General Register, should be included in any such property for the purposes of this Act, the Collector may cause a notice to be served on the person believed to be in possession of such lands in the manner prescribed by section fifty, and a general notice to be published as prescribed by section forty-nine, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may allow.

At the expiration of the said month or of such period the Collector shall proceed to enquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said property for the purposes of this Act.

PART IV.

OF THE REGISTRATION AND MUTATION OF NAMES.

38. Every proprietor of an estate or revenue-free property or of any interest therein respectively, being in possession of such estate, property, or interest, at the commencement of this Act,

every joint proprietor of an estate or revenue-free property being in charge of such estate or property, or of any interest therein respectively, on behalf of the other proprietors thereof, at the commencement of this Act,

and every person being manager of an estate or revenue-free property, or of any interest therein respectively, on behalf of a proprietor thereof, at the commencement of this Act,

shall, if his name and the character and extent of his interest have not already been registered, make application in the manner hereinafter provided for the registration of his name and of the character and extent of his interest as such proprietor, or manager, to the Collector of the district on the General Register of which such estate or property is borne, or to any other officer who may have been empowered by the Collector to receive such application, within such time as the Lieutenant-Governor may fix as hereinafter provided.

39. The Lieutenant-Governor shall, within six months from the commencement of this Act, fix for each district the date or dates before which such proprietors and managers, being in possession of estates or revenue-free properties, or of any interest therein respectively at the commencement of this Act, shall be required to apply for registration of their names, and of the character and extent of their interests, under the last preceding section, and may at any time alter any date so fixed, provided that no date so fixed shall be later than five years after the said commencement.

40. The Lieutenant-Governor may in any district, for the purposes of the last preceding section, fix different dates in respect of estates and revenue-free properties, or in

Collector may serve notice for inclusion of any lands in a revenue-free property.

Collector may register lands as a revenue-free estate and call on proprietor to apply for registration.

Proprietor and manager to register within specified time.

Lieutenant-Governor may fix date before which proprietor and manager must apply for registration.

Lieutenant-Governor may fix different dates in respect of different estates.

respect of different classes of estates and revenue-free properties, or in respect of different portions of the district:

Provided that no person shall incur any penalty or disability under this Act for failure to apply for registration of his name as such proprietor or manager as aforesaid, until after the lapse of six months from the date on which the notice prescribed by the next succeeding section shall have been published in respect of his estate or property, or in respect of the class of estates or revenue-free properties within which his estate or property falls, or in respect of the portion of the district in which his estate or revenue-free property is situated.

41. Every date fixed by the Lieutenant-Governor as provided in the two last preceding sections shall be published by a notice in the *Calcutta Gazette*;

and also by notices to be posted up at the Court or office of the Judge, the Magistrate, and the Collector of the district, in respect of which such date is fixed;

at the Court or office of every Munsif, Sub-divisional Officer, and Sub-Registrar of Assurances in such district;

and at every Police Station in such district; and by proclamation to be made by beat of drum at the head-quarters of such district, and in every place in which a sub-divisional office is situated, and in such other places as the Lieutenant-Governor may direct.

The officer in charge of every court, office, and police station at which a notice is required to be posted up under this section, shall certify to the Collector the date on which the notice was so posted up at his court, office, or police station, and the latest date so certified shall be deemed to be the date of publication of the notice for the purposes of the two last preceding sections.

42. Every person succeeding after the commencement of this Act to any proprietary right in any estate or revenue-free property, whether by purchase, inheritance, gift, or otherwise;

every joint proprietor of an estate, or revenue-free property, assuming charge after such commencement of such estate or property, or of any interest therein respectively, on behalf of the other proprietors thereof;

and every person assuming charge after such commencement of any estate or revenue-free property, or of any interest therein respectively, as manager,

shall, within six months from the date of such succession or assumption of charge, make application in the manner hereinafter provided to the Collector of the district on the General Register of which such estate or property is borne, or to any other officer who may have been empowered by such Collector to receive such applications, for registration of his name and of the character and extent of his interest as such proprietor or manager.

43. Notwithstanding anything contained in section thirty-eight or the last preceding section, the Lieutenant-Governor may in any district exempt proprietors and managers of all or any estates which are

liable to pay less than twenty rupees of land revenue annually, and proprietors and managers of all or any revenue-free properties which consist of less than fifty acres of land, from the obligations imposed by this Act in respect of applying for registration of their names, and may at any future time withdraw such exemption and require such proprietors and managers to register their names.

44. Every person who holds a mortgage of any proprietary right in any estate may apply to the Collector for registration of his name as such mortgagee, and of the interest in respect of which he is such mortgagee; and in such application shall specify whether he or the mortgagor is in possession. On receipt of such application the Collector shall proceed, as far as possible, according to the manner hereinafter prescribed in respect of applications for registration as proprietor.

45. Any application for registration under this Act may be presented by the applicant or by some person duly authorized by him in that behalf.

46. If the applicant under section thirty-eight or section forty-two is a joint proprietor in charge as aforesaid, or a manager, he shall in his application specify the name of the person or persons on behalf of whom he is in such charge or on behalf of whom he is manager, and the character and extent of the interest of every such person.

47. If the application under section thirty-eight or section forty-two be for registration of the name of the applicant as manager appointed by the Collector, the Court of Wards, or by any Civil or Criminal Court, the Collector shall register the name of the applicant, on proof being produced to his satisfaction that the applicant has been so appointed to be such manager.

48. If the application be for registration otherwise than as manager appointed as mentioned in the last preceding section, and if it sets forth circumstances which would justify the Collector in registering the name of the person whose name is required to be registered, or if after further enquiry the Collector considers that such circumstances exist, he shall issue a notice requiring all persons who object to the registration of the name of the person whose name is required to be registered, or who dispute the character or extent of the interest in respect of which it is required to be registered, to give in a written statement of their objections, and to appear on a day to be specified in such notice, not being less than one month from the date of the publication thereof.

49. Such notice shall be published by affixing a copy of the same on or at all the following places:—

(a) the zamindari kutchery (if any) of the estate or other place at which the rents are ordinarily received;

(b) some conspicuous place in at least one village appertaining to the estate to which the application relates, and if the estate comprises lands situated in more than one local division.

then in at least one village in each local division containing such lands;

(c) the office or Court of every Collector, Sub-divisional Officer, Judge, and Munsif, within whose jurisdiction, and every police station within the jurisdiction of which any of the lands to which the application relates are known to be situated.

50. If the application alleges that the applicant has acquired possession of the interest in respect of which he applies to be registered by transfer from any living person, a copy of such notice shall be served on the alleged transferor by tendering to the person to whom it may be directed a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person, or to some adult male member of his family; or in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last known place of abode of such person.

In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing such notice may direct.

No fees or other costs shall be payable by the applicant in respect of the service or publication of the notice prescribed by this and the last preceding section.

51. No irregularity or omission in the publication or service of notice as required by the three last preceding sections shall affect the validity of any proceedings under this Act, unless it is proved to the satisfaction of the Collector that some material injury was caused by such irregularity or omission.

52. On the day fixed in the notice issued under section forty-eight, or as soon thereafter as possible, the Collector shall consider any objections which may be advanced, and make such further enquiry as appears necessary to ascertain the truth of the alleged possession of, succession to, or transfer of the estate, revenue-free property, or interest therein, in respect of which registration is applied for; and if it appears to the Collector that the possession exists,

or that the succession or transfer has taken place, and that the applicant has acquired possession in accordance with such succession or transfer, but not otherwise,

the Collector shall order the name of the applicant to be registered in the proper Registers as proprietor or manager of the said estate, revenue-free property, or interest therein.

Provided that any person to whom any proprietary right in an estate has been mortgaged, may be registered as mortgagee, whether he be in actual possession or otherwise.

53. For the purpose of the enquiry mentioned in the last preceding section, and of every enquiry held under this Act, the Collector may summon and enforce the attendance of witnesses and compel them

to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.

54. All costs of any enquiry or proceeding held before the Collector under this Act shall, except as provided in section fifty, be payable by the parties concerned, and the Collector may pass such orders as he shall think fit in respect of the payment of such costs.

55. If the applicant's possession of, succession to, or acquisition by transfer of the extent of interest in respect of which he has applied to be registered, is disputed by or on behalf of any person making a conflicting claim in respect thereof, and if the possession of the applicant in accordance with his application is not proved to the satisfaction of the Collector, the Collector shall determine summarily the right to possession in respect of the interest in dispute, and shall deliver possession accordingly, and shall make the necessary entry in the registers;

or if, in the opinion of the Collector, the dispute be one which can more properly be determined by a Civil Court, the Collector shall refer the matter in dispute to the principal Civil Court of the district for determination as hereinafter provided.

Provided that if the applicant's possession of any extent of interest in accordance with his application be not disputed, or if such possession be proved to the satisfaction of the Collector, the Collector may register the said applicant's name in respect of such extent of interest, and may at the same time make a reference as hereinafter provided to the Civil Court for determination of any dispute as to any further extent of interest in respect of which the applicant has applied to be registered, but in respect of which the right of the applicant to be registered is disputed, and is not proved to the satisfaction of the Collector.

56. In any case of disputed succession to, or acquisition by transfer of, the extent of any interest in respect of which application is made under the last preceding section, the Collector may appoint a receiver to collect the rents of the extent of interest in dispute, and from the sums so collected shall be paid the expenses of management and the revenue due to the Government; and the surplus shall be held in deposit in the Collector's treasury, and shall be paid over to the person who shall be registered by the Collector, or under the order of a Civil Court, in respect of the extent of interest in dispute.

57. Every order of a Collector passed under the first clause of section fifty-five shall be of the same force and effect as an order passed by the Judge under section 4 of Act XIX of 1841 *an Act for the protection of moveable and immoveable property against wrongful possession in cases of successions*, determining summarily the right to possession and delivering possession accordingly;

and no proceedings shall be taken by any Civil Court under the said Act in respect of any claim or dispute which has been determined by an order of the Collector as aforesaid.

58. In making a reference to the Civil Court under section fifty-five the Collector shall state for the information of the said Court in writing under his hand

Procedure on making a reference under section 55.

- (1) the name of the estate or revenue-free property to which the reference applies, together with the numbers which it bears on the General Register, and (if an estate), on the revenue-roll of the district;
- (2) the names of all the persons who now stand registered on the General Register as proprietors, managers, or mortgagees of such estate or property, with the character and extent of the interest in respect of which each stands registered;
- (3) the name of the applicant for registry;
- (4) the character and extent of the interest in dispute;
- (5) the circumstances of the case as far as they are before the Collector, and the reasons which have led him to make the reference.

59. On receipt of such reference the said principal Civil Court of the district may either proceed to determine the matter, or may transfer the matter for determination to any other competent Civil Court in the district. The said principal Civil Court, or the Court to which the matter is transferred, shall cite the parties concerned, and give notice of the time at which the matter will be heard; and after expiration of the time so fixed, shall determine summarily the right to possession in respect of the interest in dispute (subject to regular suit), and shall deliver possession accordingly.

60. If it shall appear to the Judge of the Court by which the matter is heard that danger is to be apprehended of the misappropriation or waste of the property before the summary suit can be determined, such Judge may appoint curators for the care of the property, and may exercise all or any of the powers mentioned in sections 5 to 13 (both inclusive) of Act XIX of 1841.

61. The said Court may make such order as it shall think fit with regard to the payment by the parties of the cost of the enquiry and proceedings. Provided that no costs shall be recoverable from the parties on account of the issue of notices citing the parties and fixing a date for the first hearing of the case.

62. The summary decision of the Court under section fifty-nine shall have no other effect than that of settling the actual possession; but for this purpose it shall be final, not subject to any appeal or order for review.

Summary decision of Court to be final.

63. The Court shall certify to the Collector its determination as to the right of possession, and the Collector shall thereupon make the necessary entries in the proper Registers.

Court to certify its determination to Collector.

64. Fees at the following rates shall be levied by the Collector on the registry under this Act of any transfer—

Collector to levy fees on transfers.

- (1) in the case of revenue-paying lands, one quarter or four annas per centum on the annual revenue payable to Government from the extent of interest transferred;
- (2) in the case of revenue-free lands, two and a half per centum on the amount of the annual produce of the extent of interest transferred, such annual produce being the amount of the rents received and receivable on account of the year preceding the year in which the transfer may be registered;

provided that no fee for the registry of any one transfer shall exceed one hundred rupees.

Such fees shall be levied from the person in whose favor the transfer is registered.

All fees levied under this section shall be carried to the account of Government.

65. Whoever, being required by this Act to apply for the registration of his name and the extent of his interest in any estate or revenue-free property, voluntarily or negligently omits to make such application within the prescribed time, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees for such omission, and to such further daily fine as the Collector may think fit to impose, not exceeding fifty rupees, for each day during which such person shall omit to apply for such registration after a date to be fixed by the Collector in a notice requiring such person to apply for registration.

Such notice shall be served in the manner prescribed in section fifty, and the date before which such person is required to apply for registration shall not be less than one month after service of such notice.

66. The Collector may proceed from time to time to levy any amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending.

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

67. Notwithstanding anything contained in section sixty-five, no fine shall be imposed by the Collector under the said section on any person on the ground that such person has failed to make application for registration of his name within the time fixed by the Lieutenant-Governor under section thirty-nine or forty,

No penalty on person who applies suo motu.

or on the ground that such person has failed to apply for registration of his name within the time prescribed by section forty-two.

if such person shall, at any time after the expiration of the time fixed or prescribed as aforesaid, of his own motion, and otherwise than after the issue of a requisition by the Collector in that behalf, present such application as is required by this Act for the registration of his name, and of the character and extent of his interest.

68. Save as is provided in section 90 of the Code of Criminal Procedure, all the recorded proprietors and managers of an estate revenue-free property shall be deemed to be jointly and severally liable for the discharge of any duties and obligations which are by any law for the time being in force imposed upon the proprietors of such estate or property;

and all persons who are required by this Act to apply for registration shall, from the date on which the obligation so to register is imposed on them respectively by this Act, be deemed to be liable for the discharge of any duties and obligations which are by any such law as aforesaid imposed upon the proprietors of the estate or property in respect of which they are required to apply for registration respectively.

PART V.

OF THE OPENING OF SEPARATE ACCOUNTS IN RESPECT OF SHARES.

69. Notwithstanding anything contained in Act XI of 1859 (an Act to improve the law relating to sales of land, &c.), from the commencement of this Act no separate account shall be opened under the provisions of section 10 or of section 11 of the said Act in respect of the share of any applicant under the said sections otherwise than for a share corresponding with the character and extent of interest in the estate in respect of which such applicant is recorded as proprietor or manager under this Act.

70. When a proprietor of a joint estate who is recorded as proprietor of an undivided interest held in common tenancy in any specific portion of the land of the estate, but not extending over the whole estate, desires to pay separately the share of the Government revenue which is due in respect of such interest, he may submit to the Collector a written application to that effect. The application must contain a specification of the land in which he holds such undivided interest and the boundaries and extent thereof, together with a statement of the amount of Government revenue heretofore paid on account of such undivided interest. On the receipt of this application the Collector shall cause it to be published in the manner prescribed for publication of notice in section 10 of Act XI of 1859.

In the event of no objection being urged by any recorded co-sharer within six weeks from the

time of publication, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it.

The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

71. Section 12 of the said Act XI of 1859 shall apply to every application made under the last preceding section; and the effect and consequences of opening a separate account under the last preceding section shall be such and the same as are described in section 13 and in section 14 of Act XI of 1859.

72. Whenever any share in respect of which a separate account has been opened by the Collector under section 10 or section 11 of the said Act XI of 1859, or under section seventy, shall no longer correspond with the character and extent of interest held in the estate by any one proprietor or manager, or jointly by two or more proprietors or managers, any proprietor or manager whose name is borne on the General Register under this Act as proprietor or manager of any interest in the share in respect of which such separate account is open, may submit to the Collector a written application setting out the circumstances under which such share no longer corresponds with the extent of interest held in the estate by any recorded proprietor or manager, or jointly by two or more recorded proprietors or managers, and specifying the manner in which such share has become broken up and distributed among the proprietors of the estate, and praying that the separate account standing open in respect of such share shall be closed, and, if he so desire, praying that another separate account be opened in respect of any other share or shares which were wholly or partly included in the share in respect of which the previous separate account was open.

Illustration.

In a certain estate separate accounts have been opened under section 10 of Act XI of 1859 for the 4 annas share of A, and also for the 5 annas share of B, the accounts of the remaining 7 annas share being kept jointly in the names of the remaining proprietors C, D, and E.

In course of time X has inherited A's 4 annas share, and also C's interest in the 7 annas share, which amounted to 3 annas; X has also acquired by purchase 2 annas out of B's 5 annas share, so that the interests in the estate are now distributed as follows:—

X	...	9 annas.
■	...	3 "
D & E	...	4 "

X, if a recorded proprietor of the estate, may apply to the Collector to close the separate account which is open in respect of A's 4 annas share, and also the separate account which is open in respect of B's 5 annas share, as neither of these shares corresponds with the extent of interest held by any one proprietor, or held jointly by two or more proprietors in the estate;

and in the same application X may apply for the opening of a separate account in respect of the 9 annas share which he now holds.

Any of the other proprietors might also make a similar application.

73. On receipt of such application the Collector shall cause a copy of the same to be published in the manner provided in section 10 of Act XI of 1859; and if within six weeks from the date of such publication no objection is made by any other recorded proprietor of the estate, the Collector shall close the separate account which then stands open, and shall open a separate account with the applicant as required by him, under section 10, or section 11 of Act XI of 1859, or under section seventy, as the case may be.

74. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the share in respect of which any separate account is open as aforesaid has not been broken up, and does still correspond with the character and extent of interest held by any one proprietor or manager, or jointly by two or more proprietors or managers,

or object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him.

or (when the application is in respect of a specific portion of the land of an estate or in respect of an undivided interest held in common tenancy in any specific portion of the land of the estate), object that the amount of Government revenue stated by the applicant to have been heretofore paid on account of such portion of land, or on account of the applicant's undivided interest therein, is not the amount which has been recognized by the other sharers as the Government revenue thereof,

the Collector shall refer the parties to the Civil Court, and shall suspend proceedings until the question at issue is judicially determined.

PART VI.

MISCELLANEOUS.

75. The Collector shall supply an extract from any Register mentioned in this Act to any person who may apply for the same, subject to the payment of such fees for searching and copying as may be prescribed by the Board.

76. If in any district any Register prescribed by this Act has not been prepared and kept up in the vernacular language and character of the district, the Collector shall be bound, together with any English extract which may be furnished under the last preceding section, to furnish a translation of the same in the vernacular language and written in the vernacular character of such district to any one who may demand such translation, and no further charge shall be made in respect of the furnishing of such translation than might have been charged in respect of the English extract furnished under the said section.

77. Whenever any change shall be made by order of competent authority in the names of the recorded proprietors or managers of any estate or revenue-free property, or in the character or extent of the interest of any such proprietor or manager as entered in any register mentioned in this Act, so soon as the order under which such change in the entry may have been made shall have been confirmed on appeal, or so soon as the period for presenting an appeal against such order shall have expired without the presentation of an appeal, the Collector shall cause a notice of such change to be posted up at his office, at the office of every sub-divisional officer within whose jurisdiction any lands of the estate or revenue-free property concerned are situated, and at such places as he may think fit on the estate or property; and every such notice shall set out the name of every proprietor and manager of the estate or revenue-free property concerned, and the character and extent of the interest of every such proprietor and manager as it stands recorded on the General Register on the date of the issue of the notice.

78. No person shall be bound to pay rent to any person claiming such rent as proprietor, or manager, of an estate or revenue-free property in respect of which he is required by this Act to cause his name to be registered, or as mortgagee, unless the name of such claimant shall have been registered under this Act;

and no person being liable to pay rent to two or more such proprietors, managers, or mortgagees holding in common tenancy, shall be bound to pay to any one such proprietor, manager or mortgagee more than the amount which bears the same proportion to the whole of such rent, as the extent of the interest in respect of which such proprietor, manager, or mortgagee is registered, bears to the entire estate or revenue-free property.

79. The receipt of any proprietor, manager or mortgagee, whose name and the extent of whose interest is registered under this Act, shall afford full indemnity to any person paying rent to such proprietor, manager, or mortgagee.

80. Whenever any sum of money shall be payable by the Collector to the proprietors of any estate of revenue-free property jointly (otherwise than under the Land Acquisition Act 1870), the Collector may pay to any one or more recorded proprietors or managers thereof respectively, such portion of the said sum as may be proportionate to the extent of the interest in respect of which each such proprietor or manager is registered, and the receipt of each such proprietor or manager shall afford full indemnity to the Collector in respect of any sum so paid.

81. Nothing contained in the three last preceding sections shall be held to interfere with the conditions of any written contract, or to prevent any person deeming himself entitled to any sum of money from recovering such sum by due process of law from any other person who has received the same.

82. Every amount which may become due to the Collector under the provisions of this Act in respect of any expenses incurred, of any fees payable, of any notices served, of any costs payable by any party, or of any fines imposed, shall be deemed to be a demand under section 1 of Bengal Act VII of 1868 (an Act to make further provision for the recovery of arrears of land revenue and public demands recoverable as arrears of land revenue) and shall be leviable as such.

83. The Collector may by a notice require the proprietor or manager of any estate or revenue-free property to name such estate or property by a distinctive name, and in case of failure of such proprietor or manager to comply with the requisition within the time fixed by the Collector, may name such estate or property.

84. The Collector may, by a special or a general order, delegate to any Assistant Collector, Deputy Collector, or Sub-Deputy Collector the performance of any duty and the exercise of any function which the Collector is required or empowered to perform or exercise under this Act, except in respect of appeals;

and any Assistant, Deputy, or Sub-Deputy Collector to whom any duty or function is so delegated may exercise all the powers of a Collector under this Act, except in respect of appeals.

85. Every order passed under this Act by any revenue officer below the rank of the Collector of the District (not being an officer specially vested with appellate powers as hereinafter mentioned) shall be appealable to the Collector of the district, or to any officer who may have been specially vested by the Government with special appellate powers in this behalf,

and there shall be no further appeal from any order so passed in appeal confirming the order appealed against,

but an appeal shall lie to the Commissioner of the Division against every order so passed in appeal which modifies or reverses the order appealed against.

Every order passed by the Collector of the District, or by any officer specially vested with appellate powers as aforesaid, being passed otherwise than on appeal from the order of another officer, shall be appealable to the Commissioner of the Division.

Every appeal to the Collector shall be presented within fifteen days of the date of the order appealed against;

and every appeal to the Commissioner shall be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the order appealed against;

and every appeal presented after the lapse of the time fixed by this section may be summarily rejected, unless sufficient cause shall be shown to the satisfaction of the appellate authority for admitting the appeal after the lapse of such time.

Every order passed by any officer subordinate to a Commissioner shall be subject at any time to revision and modification by such Commissioner;

and every order passed by any such officer or by such Commissioner shall be subject at any time to revision and modification by the Board.

86. In computing the period of limitation prescribed for an appeal, the day on which the order complained of was made, and the time requisite for obtaining a copy of the name shall be excluded.

87. The Lieutenant-Governor may from time to time vest any officer other than the Collector of the District with special appellate powers under this Act; and every officer so vested shall be competent to hear and decide any appeal which the Collector of the District is competent to hear and decide under this Act.

88. Within four months of the date on which this Act comes into force, the Board shall make general Rules consistent with this Act to regulate—

the form in which Registers under this Act are to be kept;

the procedure as to the presentation, admission, and verification of applications for registration under Part IV, and as to inquiries under section fifty-two,

and generally for the purposes of this Act.

The Board may from time to time cancel or alter any such rules.

89. Nothing contained in this Act, and nothing done in accordance with this Act, shall be deemed to—

(a) preclude any person from bringing a regular suit for possession of, or for a declaration of right to, any immovable property to which he may deem himself entitled;

(b) render the entry of any land in the Registers under this Act as revenue-free an admission on the part of Government of the right of the person in whose name such land may be entered, or an admission of the validity of the title under which the said land is held revenue-free;

(c) affect the rights of the Government or of any person in respect of any immovable property or of any interest, except as otherwise expressly provided herein.

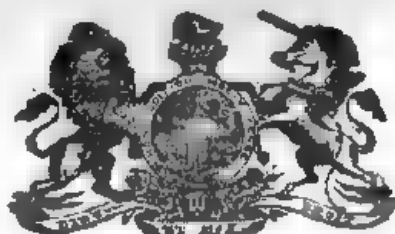
SCHEDULE OF REGULATIONS REPEALED.

See Section 2.

Number and year.	Subject or abbreviated Title.	Extent of Repeal.
XIX of 1793	Non-badshahi lakhiraj grants...	Sections twenty-one, twenty-two, twenty-nine to thirty-four; sections thirty-six to forty-one; so much of sections forty-two and forty-three as has not been repealed, sections forty-four to forty-six, all inclusive.
XXXVII of 1798	Badshahi lakhiraj grants ...	Sections sixteen to eighteen, twenty-four, twenty-six to twenty-nine; thirty-one to thirty-three, thirty-five, thirty-six; so much of section thirty-seven as has not been repealed, section thirty-eight, so much of section thirty-nine as has not been repealed, sections forty to forty-one, all inclusive.
XLVIII of 1793	A Regulation for forming a quinquennial register, &c.	So much as has not been repealed.
LVIII of 1795	Granting to the Collectors a commission on the jumma of certain lands.	So much as has not been repealed.
XV of 1797	Levying Fees, &c. ...	The whole.
VIII of 1800	Pergunnah Register ...	So much as has not been repealed, except section nineteen.

FREDERICK CLARKS,

Offg. Asst. Secy. to the Govt. of Bengal, Legislative Dept.



The Calcutta Gazette.

WEDNESDAY, SEPTEMBER 6, 1876.

PART III.

Act of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 22nd July 1876, and having been assented to by the Governor-General on the 9th August 1876, is hereby published for general information:—

ACT No. VII OF 1876.

An Act to provide for the Registration of revenue-paying and revenue-free lands, and of the proprietors and managers thereof.

WHEREAS it is expedient to make better provision for the preparation and maintenance of Registers of revenue-paying and revenue-free lands, and of the proprietors and managers thereof, and of certain mortgages of revenue paying lands: It is hereby enacted as follows:—

PART I.

PRELIMINARY.

1. This Act may be called the "Land Registration Act, 1876," and it shall come into force from the date on which it may be published in the Calcutta Gazette with the assent of the Governor-General, which date is hereinafter referred to as the commencement of this Act.

2. From the commencement of this Act, the Regulations mentioned in the schedule hereto annexed, to the extent specified in the third column thereof, shall cease to have effect in the Provinces subject to the Lieutenant-Governor of Bengal.

3. In this Act—unless there be something repugnant in the subject or context—

Interpretation clause.

(1) "Civil Court" means any Civil Court which is competent to hear and determine the matter with respect to which the words are used:

"Estate."

(2) "Estate" includes

(a) any land subject to the payment of land revenue, either immediately or prospectively, for the discharge of which a separate engagement has been entered into with Government:

(b) any land which is entered on the revenue-roll as separately assessed with land revenue (whether the amount of such assessment be payable immediately or prospectively), although no engagement has been entered into with Government for the amount of revenue so separately assessed upon it as a whole:

(c) any land being the property of Government of which the Board shall have directed the separate entry on the General Register hereinafter mentioned.

(3) "Extent of interest" means the share or interest in an estate or revenue-free property of which the person with respect to whom the words are used is in possession as proprietor or manager.

(4) "Lieutenant-Governor" means the Lieutenant-Governor of Bengal for the time being, or the person acting in that capacity:

(5) "Local division" means a sub-division, parganah, thanah, police division of jurisdiction, or other division according to which the Mouzahwar Register of the district is arranged:

(6) "Manager" means every person who is appointed by the Collector, the Court of Wards, or by any Civil or Criminal Court to manage any estate or revenue-free property or any part thereof, and every person who is in charge of an estate or revenue-free property or any part thereof on behalf of a minor, idiot, or lunatic, or on behalf of a religious or charitable foundation.

(7) "Mouzah" includes every village, hamlet, talah, and other similar sub-division of land commonly in use in any district, by whatever name such sub-division may be known:

(8) "Proprietor" means every person being in possession of an estate or revenue-free property, or of any interest in an estate or revenue-free property, as owner thereof; and includes every farmer and lessee who holds an estate or revenue-free property directly from or under the Collector:

(9) "Recorded proprietor" means any proprietor whose name and the character and extent of whose interest in an estate or revenue-free property stands registered in any General Register now existing, or hereafter to be made under this Act.

(10) "Revenue-free property" means any land not subject to the payment of land revenue, which is included under one entry in any part of the General Register of revenue-free lands:

(11) "Section" means a section of this Act:

(12) "The Board" means the Board of Revenue of the Provinces for the time being subject to the Lieutenant-Governor of Bengal:

(13) "The Collector" means the Collector of the District to which a register relates:

(14) "The District" means the District to which a Register relates.

PART II.

OF THE REGISTERS TO BE KEPT UP BY THE COLLECTOR.

4. The Collector of every district shall prepare and keep up the following Registers:—

- A.—A General Register of revenue-paying lands.
- B.—A General Register of revenue-free lands.
- C.—A Mouzahwar Register of all lands revenue-paying and revenue-free.
- D.—An Intermediate Register of changes affecting entries in the General and Mouzahwar Registers.

5. The Registers shall be written in such forms, language, and character, and shall be arranged in such manner, not being inconsistent with the provisions of this Act, as the Board from time to time may direct for each district.

The entries in each Part of the General Register shall be numbered in one consecutive series for the whole District, and shall follow one alphabetical arrangement, running from the beginning to the end of the Part.

6. The General Register of revenue-paying lands shall consist of two Parts:—

Part I.—Book of estates borne on the revenue-roll of the District.

Part II.—Book of lands situated in the District, appertaining to estates borne on the revenue-rolls of other districts.

7. In Part I of the General Register of revenue-paying lands shall be entered the name of every estate which is borne on the revenue-roll of the District, and the following particulars relating to every such estate:—

- (a) name of the estate;
- (b) number of the estate on the revenue-roll of the District, and the annual amount of revenue for which it is liable;
- (c) names and addresses of the proprietors, managers, and mortgagees of the estate, with the character and extent of the interest of each proprietor, manager, and mortgagee;
- (d) name of every local division in which any lands of the estate are situated, whether in the district, or in any other district, with specification under each local division of
 - (i) the number of mouzahs containing such lands,
 - (ii) the name of each mouzah,
 - (iii) the number which each mouzah bears under the local division in the Mouzahwar Register, and
 - (iv) the area of land appertaining to the estate which each mouzah contains, if ascertained by survey or other authentic measurement;
- (e) reference to entries made in the Intermediate Register after the preparation of the General Register.

8. In Part II of the General Register of revenue-paying lands shall be entered the name of every estate which comprises lands situated in the district, but which is borne on the revenue-roll of some other district, and the following particulars relating to every such estate:—

- (a) name of the estate;
- (b) name of the district on the revenue-roll of which the estate is borne, with the number which the estate bears on that roll, the annual amount of revenue for which it is liable, and the number which the estate bears in Part I of the General Register of revenue-paying lands for its own district;
- (c) names and addresses of the proprietors, managers, or mortgagees of the estate, with the character and extent of the interest of each proprietor, manager, and mortgagee;

(d) name of every local division of the district to which the Register relates, in which any lands of the estate are situated, with a specification under each local division of

- (i) the number of mouzabs containing such lands,
- (ii) the name of each mouzah,
- (iii) the number which each mouzah bears under the local division in the Mouzahwar Register of the district, and
- (iv) the area of land appertaining to the estate which each mouzah contains, if ascertained by survey or other authentic measurement;

(e) reference to entries made in the Intermediate Register after the preparation of the General Register

9. The General Register of revenue-free lands shall consist of three Parts—

Part I.—Book of lands held exempt from revenue in perpetuity.

Part II.—Book of lands occupied for public purposes without payment of revenue.

Part III.—Book of unassessed waste lands and other lands not included in Part I or Part II of the General Register of revenue-free lands.

10. In Part I of the General Register of revenue-free lands shall be entered all lands held under badshahi, hukami, and other kishraj grants which have been declared to be valid by competent authority.

all lands in which the Government has conferred a proprietary title free in perpetuity from any demand on account of land revenue, in consideration of the payment of a capitalized sum, or for any other reason,

and any lands of which the Board, on a full report of the circumstances of the case, shall have sanctioned the entry in this part of such Register.

Part I of such Register shall, as far as possible, contain the following particulars in respect of each entry:—

- (a) name of the revenue-free property with the character of the tenure, whether jaghir, altumgah, devatter, bishanpiri, purchased revenue-free, redeemed, or otherwise;
- (b) date of the grant or title being conferred;
- (c) nominal area granted;
- (d) names of the grantor and original grantee;
- (e) reference to any decree or other order of competent authority declaring or recognizing the grant to be valid;
- (f) names and addresses of the proprietors and managers of the revenue-free property, with the character and extent of the interest of each proprietor and manager;
- (g) name of every local division in which any land appertaining to the property is situated, whether in the District or in any other district, with specification under each local division of
 - (i) the number of mouzabs containing such land,
 - (ii) the name of each mouzah,

(iii) the number which each mouzah bears under the local division in the Mouzahwar Register, and

(iv) the area of land appertaining to the revenue-free property which the mouzah contains, if ascertained by survey or other authentic measurement, with specification of the number of each field according to the papers of such measurement;

(h) reference to entries in earlier Registers relating to the property or any part thereof;

(i) reference to entries made in any Intermediate Register after the preparation of the General Register.

11. In Part II of the General Register of revenue-free lands shall be entered all lands which are occupied by the Government, or by any public body, for public purposes; and on account of which no land revenue is demanded.

It shall contain the following particulars:—

- (a) area of the land comprised in each entry;
- (b) names of the local divisions and mouzabs in which the lands are situated, with area in each mouzah, and a reference to the number under which each mouzah is entered in the Mouzahwar Register of the local division;
- (c) name of the department of Government or of the public body by which the land is occupied;
- (d) the purpose for which it is occupied;
- (e) the date and particulars of the appropriation of the land to such purpose;
- (f) reference to entries in the Intermediate Register made after the preparation of the General Register.

12. In Part III of the General Register of revenue-free lands shall be entered all waste and other lands (not being included in any other part of the General Register) which are not assessed to land revenue. It shall contain the following particulars:—

- (a) name and number of the lot, or other particulars identifying the property;
- (b) area comprised in each entry;
- (c) name of every local division and mouzah in which lands of the property are situated, with area in each mouzah, and a reference to the local division and number under which each mouzah is entered under the local division on the Mouzahwar Register;
- (d) reference to entries in the Intermediate Register made after the preparation of the General Register.

13. If it shall appear to the Board that the circumstances of any District are such that it is not desirable or practicable to prepare the Register of revenue-free lands in the manner described in the three last preceding sections, the Board may direct that the said sections shall not apply to such District, and may lay down rules, not being inconsistent with the provisions of this Act, in respect of the registration of revenue-free lands and of the proprietors and managers thereof, provided that such rules shall require the registration of the name of one or

Board may direct that three last sections shall not apply to any district.

more persons as liable for the discharge of the duties and obligations referred to in section sixty-eight, in respect of all lands which under such rules may be registered as separate revenue-free properties.

Such rules, when they shall have been sanctioned by the Lieutenant-Governor, and published in the *Calcutta Gazette*, and otherwise locally as the Lieutenant-Governor may order, shall, from such date as the Lieutenant-Governor may direct, have the same force as if they were included in this Act.

14. The Mouzahwar Register shall be kept up for the purpose of showing, in a connected form, the mouzahi situated in each local division, and the lands, whether revenue-paying or revenue-free, of which each mouzahi consists.

15. The Mouzahwar Register shall be arranged and divided according to sub-divisions, parganahs, thanahs, police jurisdictions, or such other local divisions of the district as the Board may from time to time direct for each district; the entries of mouzahi shall have a separate series of consecutive numbers, and a separate alphabetical arrangement for each local division.

The Mouzahwar Register shall contain the following particulars:—

- (a) name of the mouzahi;
- (b) total area of mouzahi, if ascertained by survey or other authentic measurement, with a reference to the authority for the entry;
- (c) name of every estate or revenue-free property to which any of the lands of the mouzahi appertain, with a reference to the entry of each on the General Register, and a specification of the area of land in the mouzahi which appertains to each, if ascertained by survey or other authentic measurement, with a reference to the authority for such entry;
- (d) gross rental of the area of land in the mouzahi which appertains to each estate or property, if such rental has been ascertained during management of the lands by the Collector or by other authentic means, with a reference to the authority for the entry;
- (e) reference to entries made in Intermediate Registers after the preparation of the Mouzahwar Register.

16. Intermediate Registers shall be kept up for the purpose of recording therein from time to time changes affecting the entries which stand in the General and Mouzahwar Registers, so that by a reference to them in connection with those Registers correct information up to date on the points recorded may be obtained at any time; also for the purpose of keeping together, as far as possible, in a convenient form, the information which will eventually be required for re-writing the General and Mouzahwar Registers.

17. The Intermediate Register shall consist of two Parts, as follows:—

PART I.—Book of changes affecting entries relating to revenue-paying lands.

PART II.—Book of changes affecting entries relating to revenue-free lands.

18. In Part I of the Intermediate Register Particulars of Part I of shall be recorded in a convenient form all changes in the names of proprietors, managers, and (so far as this Act requires) mortgagees, and in the character or extent of the interest of each such proprietor, manager, and mortgagee, and such other changes affecting any entry standing in the General Register of revenue-paying lands, or any entry in the Mouzahwar Register relating to revenue-paying lands, as cannot conveniently be entered against such entry in the General or the Mouzahwar Register. It shall contain the following particulars:—

- (a) name of the estate affected, with reference to the number it bears on the General Register of revenue-paying lands, the number it bears on the revenue-roll, and the amount of revenue for which it is liable;
- (b) reference to previous entries in the Intermediate Register relating to the estate;
- (c) particulars of the change, with a reference to the authority under which it is made;
- (d) the numbers borne by the entries in each Part of the General Register of revenue-paying lands, and under each local division in the Mouzahwar Register, which are affected by the change here recorded.

19. In Part II of the Intermediate Register Particulars of Part II of shall be recorded all changes in the names of proprietors and managers of revenue-free properties, and in the character and extent of interest of each such proprietor and manager, and such other changes affecting any entry standing in the General Register of revenue-free lands, or any entry relating to revenue-free lands in the Mouzahwar Register, as cannot conveniently be entered against such entry in the General or the Mouzahwar Register. It shall contain the following particulars:—

- (a) name and character of the revenue-free property to which the lands appertain, and number which it bears in any part of the Register of revenue-free lands;
- (b) reference to previous entries in the Intermediate Register relating to the property;
- (c) particulars of the change, with a reference to the authority under which it is made;
- (d) the numbers borne by the entries in the General Register and under each local division in the Mouzahwar Register which are affected by the change here recorded.

PART III.

OF THE PREPARATION AND MAINTENANCE OF THE REGISTERS.

20. Until the Registers by this Act directed to be prepared are so prepared the existing Registers now kept up in the office of

Old Registers to be in force till new Registers prepared.

every Collector shall be deemed to be the Register kept up under this Act, that is to say—

The existing General Register of revenue-paying estates shall be deemed to be the General Register of revenue-paying lands;

The existing Parganah Register (Part II) of revenue-free lands shall be deemed to be the General Register of revenue-free lands, and the Mouzahwar Register in respect of revenue-free lands.

The existing Parganah Register (Part I) of revenue-paying lands shall be deemed to be the Mouzahwar Register in respect of revenue-paying lands.

The existing Register of Intermediate Mutations shall be deemed to be the Intermediate Register of changes affecting entries in the General and Mouzahwar Registers;

And all the provisions of this Act shall, as far as possible, be deemed to be applicable to such Registers, and to the registration therein of the names and interests of proprietors, managers and mortgagees.

21. The first General Registers and the first Mouzahwar Register under this Act, shall be prepared for each district at such time as the Board may direct from the entries in the existing Registers mentioned in the last preceding section, and from any other authentic information available to the Collector.

22. The Board may order new Registers to be prepared whenever it may think fit, and such Registers shall be prepared from the Registers existing at the time of such order, and from the entries of subsequent changes in the Intermediate Registers, and from any other authentic information available to the Collector; and such additions to, omissions from, and alterations in, the entries as they appeared in the previous Registers shall be made as subsequent changes have rendered necessary; and the authority for every change shall be expressly referred to.

23. Whenever, after the preparation of the General Registers, it may be necessary to bring any estate or revenue-free property on to any Part of such Registers on which such estate or property is not already entered, such estate or property shall be at once brought on to such Part under a new number, a continuation of the last number already borne on such part; and a note referring to such entry shall be made in the place in the General Register in which such estate or property would have appeared according to the alphabetical arrangement mentioned in section five.

24. Whenever, after the preparation of the Mouzahwar Register, it shall be necessary to enter any mouzah under any local division of such Register in which it is not already borne, such mouzah shall be at once brought under the proper local division with a new number, a continuation of the number borne by the last entry under such local division; and a note referring to such entry shall be made in the place in the Mouzahwar Register in which such estate or property would have appeared according to the

alphabetical arrangement mentioned in section fifteen.

25. All new entries made in the General and Mouzahwar Registers after their preparation, as prescribed in the two last preceding sections, shall be made in chronological order.

Entries made under two preceding sections to be in chronological order.

26. After the General Register of revenue-paying lands shall have been prepared, a note shall from time to time be made on such Register against the estate affected

Note to be made on General Register.

of every alteration which may be ordered by competent authority, in the amount of revenue assessed on any estate;

of every partition of an estate into two or more estates;

of every change involving the removal of an estate from the part of the Register on which it is borne;

of the redemption of every mortgage in respect of which the name of the mortgagee shall have been entered on the Register;

and in every such note reference shall be made to the authority under which the change was made.

In preparing the Register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand in the Register may be recorded in Part I of the Intermediate Register as provided in section eighteen, and a reference shall be made in the General Register against the estate affected to every entry which may be made in the Intermediate Registers recording any such change.

27. After the General Register of revenue-free lands shall have been prepared, a note shall from time to time be made on such Register against the property affected

Note on General Register of revenue-free lands.

of every case in which lands entered as revenue-free may be declared liable to assessment, and assessed by competent authority;

of every partition of a revenue-free property into two or more properties;

of every change involving the removal of a revenue-free property from the Part of the Register on which it is borne;

and in every such note reference shall be made to the authority under which the change was made.

In preparing the Register space shall be left for the future entry of such notes against each estate.

Any other changes affecting the entries as they stand on the Register may be recorded in Part II of the Intermediate Register as provided in section nineteen.

28. Whenever it shall come to the notice of the Collector that any change has occurred which affects any entry in his Registers, and renders necessary any alteration therein, the Collector, after making such enquiry as may be necessary, shall make such alteration:

Collector, after making enquiry, may make change in his Register.

Provided that notice shall be given to the recorded proprietors and managers of any estate or revenue-free property before any change is made in any way affecting such estate or property,

and to every person whose name the Collector is about to register as proprietor or manager of any estate or revenue-free property, before such registration is effected; and any objections which may be made to the proposed change or registration shall be duly considered by the Collector before he orders such change or registration to be made.

29. Whenever it shall appear to the Collector in the course of an enquiry made in respect of an application under section thirty-eight or section forty-two, or otherwise, that any person whose name is recorded in the General Register as proprietor or manager, or joint proprietor or joint manager of an estate or revenue-free property, is no longer in possession of any interest in such estate or property as proprietor or manager, and that the names of other persons have been recorded as proprietors or managers of every portion of the interest in respect of which such proprietor's or manager's name was borne on the Register, the Collector may order the name of such person to be struck out from among the recorded proprietors or managers of such estate or property, and, if required, may grant him a certificate to that effect.

Collector may in certain cases order names of proprietors to be struck out of the register.

30. To enable the Collector more effectually to maintain his registers,

(a.) Whenever any competent authority may direct that any estate be transferred from the revenue-roll of one district to that of another, the Collector of the district from the revenue-roll of which the estate is to be transferred, shall transmit to the Collector of the district to the revenue-roll of which the transfer is to be made, a copy of all entries in any of the registers relating to the estate to be so transferred, and entries taken from such copy shall be made in the proper registers of the district to which the transfer is made.

(b.) Whenever the Collector of any district shall make an entry, or any alteration of an entry, in his registers, which will affect any entry required to be made under this Act in any register of another district, such Collector shall transmit to the Collector of such other district copy of such entry as made or as altered, and the Collector to whom such copy is transmitted shall cause the necessary entries, or alteration of entries, to be made in the registers of his district.

(c.) Every proprietor and manager of an estate or revenue-free property in which any new village may be established, whether under the name of tolah, kismat, or any other designation, shall forthwith give notice to the Collector of the establishment of such new village.

Provided that the Board may exempt any district or part of a district from the operation of this clause.

(d.) Every proprietor and manager of an estate or revenue-free property, and any person holding any interest in land, or employed in the management of land, shall be bound, on the requisition of the Collector, to furnish any information required by the Collector for the purpose of preparing, making, or correcting any entry of the particulars specified in sections seven, eight, ten, eleven, twelve, or fifteen, or to show to the satisfaction of the Collector that it is not in his power to furnish the required information.

Such requisition shall be made by a notice to be served in the manner prescribed by section fifty, requiring the production of such information before a date mentioned in such notice.

31. Whoever, being bound by clause (c) of the last preceding section to give notice to the Collector of the establishment of any new village, or under clause (d) of the said section to furnish any information required by the Collector, shall voluntarily or negligently omit to give such notice or furnish such information, or to show to the satisfaction of the Collector that it is not in his power to furnish such information, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees, for such omission, and the Collector may impose such further daily fine as he may think proper, not exceeding fifty rupees, for each day during which such person shall omit to furnish the information required under clause (d) after a date to be fixed by the Collector in a notice warning the person required to furnish such information, that such further daily fine will be imposed.

Such notice shall be served in the manner prescribed by section fifty, and the date fixed by such notice shall not be less than fifteen days after service thereof.

The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed under this section notwithstanding that an appeal against the order imposing such fine may be pending.

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

32. Whenever any Civil Court makes a decree confirming any transfer of proprietary possession which has already been made in any estate or revenue-free property, or gives effect to any decree transferring any such possession, such Court may order the transfer to be registered in the Registers of the Collector, and the Collector shall register such transfer accordingly.

33. All lands which are held without payment of rent, not being a revenue-free property entered in the General Register of revenue-free lands, as prescribed by sections ten, eleven, twelve, and not being a part of any such property shall, for the purposes of this Act, be deemed to be a part of the estate within the local boundaries of which they are included; and they are not included within the local boundaries of any one estate, then to be a part of such neighbouring estate as the Collector shall, by order under his seal and signature, declare.

34. Whenever it shall appear to the Collector that any lands which are not included in any estate as entered in the existing General Register, should be included in any estate for the purposes of this Act, the Collector shall cause a notice, addressed to the person who is believed to be in possession of such lands,

Collector may include any lands in an estate.

General Register, should be included in any estate for the purposes of this Act, the Collector shall cause a notice, addressed to the person who is believed to be in possession of such lands,

be served in the manner prescribed by section fifty, and a general notice to be published as prescribed by section forty-nine, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may think fit to allow.

After the expiration of the said month or other period the Collector shall proceed to enquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said estate for the purposes of this Act.

35. Whenever it shall appear to the Collector that any land which is not entered on the General Register as a separate revenue-free property should be entered on the register as such property, he may cause a notice to be served in the manner prescribed by section fifty calling on the person in possession of such land as proprietor or manager to show cause why such land should not be so registered as a revenue-free property, and if, after hearing any objections (which may be preferred within a month of the service of the said notice, or such longer period as the Collector may think fit to allow), and after making such further enquiry as may be necessary, the Collector shall be of opinion that the land should be so registered, he shall enter such land on the General Register as a revenue-free property, and by a notice served as prescribed in section fifty, as well as by a general notice published as prescribed in section forty-nine, shall require every proprietor and manager of such revenue-free property to apply for registration of his name and of the character and extent of his interest as such proprietor or manager, and thereupon every such proprietor and manager shall be deemed, for the purposes of section sixty-eight, to be a person who is required by this Act to apply for the registration of his name; and all the provisions of Part IV of this Act, so far as may be practicable, shall apply to every such person.

Provided that no such proprietor or manager shall be liable to any fine under section sixty-five, until after the expiration of three months from the date on which the last mentioned notice shall have been served.

Provided also that no land shall be entered as a revenue-free property in Part I of the General Register of revenue-free lands until the circumstances of the case shall have been reported to the Board, and until the Board shall have sanctioned such entry.

36. The Board may decide what revenue-free lands shall be included in each revenue-free property to be registered as such under this Act, and may from time to time direct that lands which are borne on the Register as forming one revenue-free property shall be divided and entered on the Register as forming two or more such properties; and may similarly direct that revenue-free lands which are borne on the Register as forming two or more revenue-free properties shall be united, and entered as forming one revenue-free property.

The Board may also direct that any lands which are improperly borne upon the General Register of revenue-free lands shall be removed from such Register, or shall be omitted from any

new Register of such lands which may be prepared.

37. Whenever it shall appear to the Collector that any land which is not included in any revenue-free property entered in the existing General Register, should be included in any such property for the purposes of this Act, the Collector may cause a notice to be served on the person believed to be in possession of such lands in the manner prescribed by section fifty, and a general notice to be published as prescribed by section forty-nine, to the effect that such lands will be so included if no objection be made within one month of the service of the said notice, or such longer period as the Collector may allow.

At the expiration of the said month or of such period the Collector shall proceed to enquire into any objections which may have been made, and to pass such order as he may think fit in respect to the inclusion of the said lands in the said property for the purposes of this Act.

PART IV.

OF THE REGISTRATION AND MUTATION OF NAMES.

38. Every proprietor of an estate or revenue-free property or of any interest therein respectively, being in possession of such estate, property, or interest, at the commencement of this Act,

every joint proprietor of an estate or revenue-free property being in charge of such estate or property, or of any interest therein respectively, on behalf of the other proprietors thereof, at the commencement of this Act,

and every person being manager of an estate or revenue-free property, or of any interest therein respectively, on behalf of a proprietor thereof, at the commencement of this Act,

shall, if his name and the character and extent of his interest have not already been registered, make application in the manner hereinafter provided for the registration of his name and of the character and extent of his interest as such proprietor, or manager, to the Collector of the district on the General Register of which such estate or property is borne, or to any other officer who may have been empowered by the Collector to receive such application, within such time as the Lieutenant-Governor may fix as hereinafter provided.

39. The Lieutenant-Governor shall, within six months from the commencement of this Act, fix for each district the date or dates before which such proprietors and managers, being in possession of estates or revenue-free properties, or of any interest therein respectively at the commencement of this Act, shall be required to apply for registration of their names, and of the character and extent of their interests, under the last preceding section, and may at any time alter any date so fixed, provided that no date so fixed shall be later than five years after the said commencement.

40. The Lieutenant-Governor may in any district, for the purposes of the last preceding section, fix different dates in respect of estates and revenue-free properties, or in

Collector may register lands as a revenue-free estate and call on proprietor to apply for registration.

Proprietor and manager to register within specified time.

Lieutenant-Governor may fix date before which proprietor and manager must apply for registration.

Lieutenant-Governor may fix different dates in respect of different estates.

respect of different classes of estates and revenue-free properties, or in respect of different portions of the district:

Provided that no person shall incur any penalty or disability under this Act for failure to apply for registration of his name as such proprietor or manager as aforesaid, until after the lapse of six months from the date on which the notice prescribed by the next succeeding section shall have been published in respect of his estate or property, or in respect of the class of estates or revenue-free properties within which his estate or property falls, or in respect of the portion of the district in which his estate or revenue-free property is situated.

41. Every date fixed by the Lieutenant-Governor as provided in the

Publication of date fixed by Lieutenant-Governor.

two last preceding sections shall be published by a notice in the *Calcutta Gazette*;

and also by notices to be posted up

at the Court or office of the Judge, the Magistrate, and the Collector of the district, in respect of which such date is fixed;

at the Court or office of every Munsif, Sub-divisional Officer, and Sub-Registrar of Assurances in such district;

and at every Police Station in such district;

and by proclamation to be made by beat of drum at the head-quarters of such district, and in every place in which a sub-divisional office is situated, and in such other places as the Lieutenant-Governor may direct.

The officer in charge of every court, office, and police station at which a notice is required to be posted up under this section, shall certify to the Collector the date on which the notice was so posted up at his court, office, or police station, and the latest date so certified shall be deemed to be the date of publication of the notices for the purposes of the two last preceding sections.

42. Every person succeeding after the com-

Persons succeeding to proprietary right in or management of estates to give information within six months.

mencement of this Act to any proprietary right in any estate or revenue-free property, whether by purchase, inheritance, gift, or otherwise;

every joint proprietor of an estate, or revenue-free property, assuming charge after such commencement of such estate or property, or of any interest therein respectively, on behalf of the other proprietors thereof;

and every person assuming charge after such commencement of any estate or revenue-free property, or of any interest therein respectively, as manager,

shall, within six months from the date of such succession or assumption of charge, make application in the manner hereinafter provided to the Collector of the district on the General Register of which such estate or property is borne, or to any other officer who may have been empowered by such Collector to receive such applications, for registration of his name and of the character and extent of his interest as such proprietor or manager.

43. Notwithstanding anything contained in section thirty-eight or the

Lieutenant-Governor may exempt certain proprietors from obligations imposed by this Act.

last preceding section, the Lieutenant-Governor may in any district exempt proprie-

tors and managers of all or any estates which are

liable to pay less than twenty rupees of land revenue annually, and proprietors and managers of all or any revenue-free properties which consist of less than fifty acres of land, from the obligations imposed by this Act in respect of applying for registration of their names, and may at any future time withdraw such exemption and require such proprietors and managers to register their names.

44. Every person who holds a mortgage of

Mortgagee may apply for registration.

any proprietary right in

any estate may apply to the

Collector for registration of

his name as such mortgagee, and of the interest in respect of which he is such mortgagee; and in such application shall specify whether he or the mortgagor is in possession. On receipt of such application the Collector shall proceed, as far as possible, according to the manner herein-after prescribed in respect of applications for registration as proprietor.

45. Any application for registration under

Presentation of application.

this Act may be presented

by the applicant or by some person duly authorized by him in that behalf.

46. If the applicant under section thirty-eight

Manager to specify extent of interest of each person for whom he manages.

or section forty-two is a joint

proprietor in charge as aforesaid, or a manager, he shall in his application specify the names of the person or persons on behalf of whom he is in such charge or on behalf of whom he is manager, and the character and extent of the interest of every such person.

47. If the application under section thirty-eight

If application is for registration as manager, appointed by authority, Collector shall register name of applicant on proof of appointment.

or section forty-two be for

registration of the name of the applicant as manager appointed by the Collector, the Court of Wards, or by any Civil or Criminal Court, the Collector shall register the name of the applicant, on proof being produced to his satisfaction that the applicant has been so appointed to be such manager.

48. If the application be for registration

Notice to objectors.

otherwise than as manager

appointed as mentioned in the last preceding section, and if it sets forth circumstances which would justify the Collector in registering the name of the person whose name is required to be registered, or if after further enquiry the Collector considers that such circumstances exist, he shall issue a notice requiring all persons who object to the registration of the name of the person whose name is required to be registered, or who dispute the character or extent of the interest in respect of which it is required to be registered, to give in a written statement of their objections, and to appear on a day to be specified in such notice, not being less than one month from the date of the publication thereof.

49. Such notice shall be published by affixing

Publication of notice.

a copy of the same on or at all the following places:—

(a) the zamindari kutchery (if any) of the estate or other place at which the rents are ordinarily received;

(b) some conspicuous place in at least one village appertaining to the estate to which the application relates, and if the estate comprises lands situated in more than one local division,

then in at least one village in each local division containing such lands;

(c) the office or Court of every Collector, Sub-divisional Officer, Judge, and Munsif, within whose jurisdiction, and every police station within the jurisdiction of which any of the lands to which the application relates are known to be situated.

50. If the application alleges that the applicant has acquired possession of the interest in

Notice to transferor.

respect of which he applies to be registered by transfer from any living person, a copy of such notice shall be served on the alleged transferor by tendering to the person to whom it may be directed a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person, or to some adult male member of his family; or in case it cannot be so served, by posting such copy upon some conspicuous part of the usual or last known place of abode of such person.

In case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing such notice may direct.

No fees or other costs shall be payable by the applicant in respect of the service or publication of the notice prescribed by this and the last preceding section.

51. No irregularity or omission in the publi-

Irregularity in publication or service of notice not to affect validity of proceedings.

cation or service of notice as required by the three last preceding sections shall affect the validity of any proceedings under this Act, unless it is proved to the satisfaction of the Collector that some material injury was caused by such irregularity or omission.

52. On the day fixed in the notice issued

Enquiry by Collector.

under section forty-eight, or as soon thereafter as possible, the Collector shall consider any objections which may be advanced, and make such further enquiry as appears necessary to ascertain the truth of the alleged possession of, succession to, or transfer of the estate, revenue-free property, or interest therein, in respect of which registration is applied for; and if it appears to the Collector that the possession exists,

or that the succession or transfer has taken place, and that the applicant has acquired possession in accordance with such succession or transfer, but not otherwise,

the Collector shall order the name of the applicant to be registered in the proper Registers as proprietor or manager of the said estate, revenue-free property, or interest therein.

Provided that any person to whom any proprietary right in an estate has been mortgaged, may be registered as mortgagee, whether he be in actual possession or otherwise.

53. For the purpose of the enquiry mentioned

Power to summon witnesses and compel production of documents.

in the last preceding section, and of every enquiry held under this Act, the Collector may summon and enforce the attendance of witnesses and compel them

to give evidence, and compel the production of documents by the same means, and, as far as possible, in the same manner, as is provided in the case of a Civil Court by the Code of Civil Procedure.

54. All costs of any enquiry or proceeding

Payment of costs.

held before the Collector under this Act shall, except as provided in section fifty, be payable by the parties concerned, and the Collector may pass such orders as he shall think fit in respect of the payment of such costs.

55. If the applicant's possession of, succe-

Dispute as to possession, succession, or acquisition by transfer.

sion to, or acquisition by transfer of the extent of interest in respect of which he has applied to be registered, is disputed by or on behalf of any person making a conflicting claim in respect thereof, and if the possession of the applicant in accordance with his application is not proved to the satisfaction of the Collector, the Collector shall determine summarily the right to possession in respect of the interest in dispute, and shall deliver possession accordingly, and shall make the necessary entry in the registers;

or if, in the opinion of the Collector, the dispute be one which can more properly be determined by a Civil Court, the Collector shall refer the matter in dispute to the principal Civil Court of the district for determination as hereinafter provided.

Provided that if the applicant's possession of any extent of interest in accordance with his application be not disputed, or if such possession be proved to the satisfaction of the Collector, the Collector may register the said applicant's name in respect of such extent of interest, and may at the same time make a reference as hereinafter provided to the Civil Court for determination of any dispute as to any further extent of interest in respect of which the applicant has applied to be registered, but in respect of which the right of the applicant to be registered is disputed, and is not proved to the satisfaction of the Collector.

56. In any case of disputed possession of,

In cases of disputed possession, &c., Collector may appoint receiver.

succession to, or acquisition by transfer of, the extent of any interest in respect of which application is made under the last preceding section, the Collector may appoint a receiver to collect the rents of the extent of interest in dispute, and from the sums so collected shall be paid the expenses of management and the revenue due to the Government; and the surplus shall be held in deposit in the Collector's treasury, and shall be paid over to the person who shall be registered by the Collector, or under the order of a Civil Court, in respect of the extent of interest in dispute.

57. Every order of a Collector passed under the

Effect of Collector's order.

first clause of section fifty-five shall be of the same force and effect as an order passed by the Judge under section 4 of Act XIX of 1841 (an Act for the protection of moveable and immoveable property against wrongful possession in cases of successions), determining summarily the right to possession and delivering possession accordingly;

and no proceedings shall be taken by any Civil Court under the said Act in respect of any claim or dispute which has been determined by an order of the Collector as aforesaid.

58. In making a reference to the Civil Court under section fifty-five the Collector shall state for the information of the said Court in writing under his hand

Procedure on making a reference under section 58.

- (1) the name of the estate or revenue-free property to which the reference applies, together with the numbers which it bears on the General Register, and (if an estate), on the revenue-roll of the district;
- (2) the names of all the persons who now stand registered on the General Register as proprietors, managers, or mortgagees of such estate or property, with the character and extent of the interest in respect of which each stands registered;
- (3) the name of the applicant for registry;
- (4) the character and extent of the interest in dispute;
- (5) the circumstances of the case as far as they are before the Collector, and the reasons which have led him to make the reference.

59. On receipt of such reference the said principal Civil Court of the district may either proceed to determine the matter, or may transfer the matter for determination to any other competent Civil Court in the district. The said principal Civil Court, or the Court to which the matter is transferred, shall cite the parties concerned, and give notice of the time at which the matter will be heard; and after expiration of the time so fixed, shall determine summarily the right to possession in respect of the interest in dispute (subject to regular suit), and shall deliver possession accordingly.

60. If it shall appear to the Judge of the Court by which the matter is heard that danger is to be apprehended of the misappropriation or waste of the property before the summary suit can be determined, such Judge may appoint curators for the care of the property, and may exercise all or any of the powers mentioned in sections 5 to 13 (both inclusive) of Act XIX of 1841.

61. The said Court may make such order as it shall think fit with regard to the payment by the parties of the cost of the enquiry and proceedings. Provided that no costs shall be recoverable from the parties on account of the issue of notices citing the parties and fixing a date for the first hearing of the case.

62. The summary decision of the Court under section fifty-nine shall have no other effect than that of settling the actual possession; but for this purpose it shall be final, not subject to any appeal or order for review.

Summary decision of Court to be final.

63. The Court shall certify to the Collector its determination as to the right of possession, and the Collector shall thereupon make the necessary entries in the proper Registers.

Court to certify its determination to Collector.

64. Fees at the following rates shall be levied by the Collector on the registry under this Act of any transfer—

Collector to levy fees on transfers.

- (1) in the case of revenue-paying lands, one quarter or four annas per centum on the annual revenue payable to Government from the extent of interest transferred;
- (2) in the case of revenue-free lands, two and a half per centum on the amount of the annual produce of the extent of interest transferred, such annual produce being the amount of the rents received and receivable on account of the year preceding the year in which the transfer may be registered;

provided that no fee for the registry of any one transfer shall exceed one hundred rupees.

Such fees shall be levied from the person in whose favor the transfer is registered.

All fees levied under this section shall be carried to the account of Government.

65. Whoever, being required by this Act to apply for the registration of his name and the extent of his interest in any estate or revenue-free property, voluntarily or negligently omits to make such application within the prescribed time, shall be liable to such fine as the Collector may think fit to impose, not exceeding one hundred rupees for such omission, and to such further daily fine as the Collector may think fit to impose, not exceeding fifty rupees, for each day during which such person shall omit to apply for such registration after a date to be fixed by the Collector in a notice requiring such person to apply for registration.

Such notice shall be served in the manner prescribed in section fifty, and the date before which such person is required to apply for registration shall not be less than one month after service of such notice.

66. The Collector may proceed from time to time to levy any amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending.

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by authority of the said Commissioner.

67. Notwithstanding anything contained in section sixty-five, no fine shall be imposed by the Collector under the said section on any person on the ground that such person has failed to make application for registration of his name within the time fixed by the Lieutenant-Governor under section thirty-nine or forty,

No penalty on person who applies suo motu.

or on the ground that such person has failed to apply for registration of his name within the time prescribed by section forty-two,

if such person shall, at any time after the expiration of the time fixed or prescribed as aforesaid, of his own motion, and otherwise than after the issue of a requisition by the Collector in that behalf, present such application as is required by this Act for the registration of his name, and of the character and extent of his interest.

68. Save as is provided in section 90 of the Code of Criminal Procedure, all the recorded proprietors and managers of an estate or revenue-free property shall be deemed to be jointly and severally liable for the discharge of any duties and obligations which are by any law for the time being in force imposed upon the proprietors of such estate or property;

and all persons who are required by this Act to apply for registration shall, from the date on which the obligation so to register is imposed on them respectively by this Act, be deemed to be liable for the discharge of any duties and obligations which are by any such law as aforesaid imposed upon the proprietors of the estate or property in respect of which they are required to apply for registration respectively.

PART V.

OF THE OPENING OF SEPARATE ACCOUNTS IN RESPECT OF SHARES.

69. Notwithstanding anything contained in Act XI of 1859 (an Act to improve the law relating to sales of land, &c.), from the commencement of this Act no separate account shall be opened under the provisions of section 10 or of section 11 of the said Act in respect of the share of any applicant under the said sections otherwise than for a share corresponding with the character and extent of interest in the estate in respect of which such applicant is recorded as proprietor or manager under this Act.

70. When a proprietor of a joint estate who is recorded as proprietor of an undivided interest held in common tenancy in any specific portion of the land of the estate, but not extending over the whole estate, desires to pay separately the share of the Government revenue which is due in respect of such interest, he may submit to the Collector a written application to that effect. The application must contain a specification of the land in which he holds such undivided interest and of the boundaries and extent thereof, together with a statement of the amount of Government revenue heretofore paid on account of such undivided interest. On the receipt of this application the Collector shall cause it to be published in the manner prescribed for publication of notice in section 10 of Act XI of 1859.

In the event of no objection being urged by any recorded co-sharer within six weeks from the

time of publication, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it.

The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

71. Section 12 of the said Act XI of 1859 shall apply to every application made under the last preceding section; and the effect and consequences of opening a separate account under the last preceding section shall be such and the same as are described in section 13 and in section 14 of Act XI of 1859.

72. Whenever any share in respect of which a separate account has been opened by the Collector under section 10 or section 11 of the said Act XI of 1859, or under section seventy, shall no longer correspond with the character and extent of interest held in the estate by any one proprietor or manager, or jointly by two or more proprietors or managers, any proprietor or manager whose name is borne on the General Register under this Act as proprietor or manager of any interest in the share in respect of which such separate account is open, may submit to the Collector a written application setting out the circumstances under which such share no longer corresponds with the extent of interest held in the estate by any recorded proprietor or manager, or jointly by two or more recorded proprietors or managers, and specifying the manner in which such share has become broken up and distributed among the proprietors of the estate, and praying that the separate account standing open in respect of such share shall be closed, and, if he so desire, praying that another separate account be opened in respect of any other share or shares which were wholly or partly included in the share in respect of which the previous separate account was open.

Illustration.

In a certain estate separate accounts have been opened under section 10 of Act XI of 1859 for the 4 annas share of A, and also for the 5 annas share of B, the accounts of the remaining 7 annas share being kept jointly in the names of the remaining proprietors C, D, and E.

In course of time X has inherited A's 4 annas share, and also C's interest in the 7 annas share, which amounted to 3 annas; X has also acquired by purchase 2 annas out of B's 5 annas share, so that the interests in the estate are now distributed as follows:—

X	...	9 annas.
B	...	3 "
D & E	...	4 "

X, if a recorded proprietor of the estate, may apply to the Collector to close the separate account which is open in respect of A's 4 annas share, and also the separate account which is open in respect of B's 5 annas share, as neither of these shares corresponds with the extent of interest held by any one proprietor, or held jointly by two or more proprietors in the estate;

and in the same application X may apply for the opening of a separate account in respect of the 9 annas share which he now holds.

Any of the other proprietors might also make a similar application.

73. On receipt of such application the Collector shall cause a copy of the same to be published in the manner provided in section 10 of Act XI of 1859; and if within six weeks from the date of such publication no objection is made by any other recorded proprietor of the estate, the Collector shall close the separate account which then stands open, and shall open a separate account with the applicant as required by him, under section 10, or section 11 of Act XI of 1859, or under section seventy, as the case may be.

74. If any recorded proprietor of the estate, Procedure in case of objection. whether the same be held in common tenancy or otherwise, object that the share in respect of which any separate account is open as aforesaid has not been broken up, and does still correspond with the character and extent of interest held by any one proprietor or manager, or jointly by two or more proprietors or managers,

or object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him,

or (when the application is in respect of a specific portion of the land of an estate or in respect of an undivided interest held in common tenancy in any specific portion of the land of the estate), object that the amount of Government revenue stated by the applicant to have been heretofore paid on account of such portion of land, or on account of the applicant's undivided interest therein, is not the amount which has been recognized by the other sharers as the Government revenue thereof,

the Collector shall refer the parties to the Civil Court, and shall suspend proceedings until the question at issue is judicially determined.

PART VI.

MISCELLANEOUS.

75. The Collector shall supply an extract from any Register mentioned in this Act to any person who may apply for the same, subject to the payment of such fees for searching and copying as may be prescribed by the Board.

76. If in any district any Register prescribed by this Act has not been prepared and kept up in the vernacular language and character of the district, the Collector shall be bound, together with any English extract which may be furnished under the last preceding section, to furnish a translation of the same in the vernacular language and written in the vernacular character of such district to any one who may demand such translation, and no further charge shall be made in respect of the furnishing of such translation than might have been charged in respect of the English extract furnished under the said section.

77. Whenever any change shall be made by order of competent authority in the names of the recorded proprietors or managers of any estate or revenue-free property, or in the character or extent of the interest of any such proprietor or manager as entered in any register mentioned in this Act, so soon as the order under which such change in the entry may have been made shall have been confirmed on appeal, or so soon as the period for presenting an appeal against such order shall have expired without the presentation of an appeal, the Collector shall cause a notice of such change to be posted up at his office, at the office of every sub-divisional officer within whose jurisdiction any lands of the estate or revenue-free property concerned are situated, and at such places as he may think fit on the estate or property; and every such notice shall set out the name of every proprietor and manager of the estate or revenue-free property concerned, and the character and extent of the interest of every such proprietor and manager as it stands recorded on the General Register on the date of the issue of the notice.

78. No person shall be bound to pay rent to any person claiming such rent as proprietor, or manager, of an estate or revenue-free property in respect of which he is required by this Act to cause his name to be registered, or as mortgagee, unless the name of such claimant shall have been registered under this Act;

and no person being liable to pay rent to two or more such proprietors, managers, or mortgagees holding in common tenancy, shall be bound to pay to any one such proprietor, manager, or mortgagee more than the amount which bears the same proportion to the whole of such rent, as the extent of the interest in respect of which such proprietor, manager, or mortgagee is registered, bears to the entire estate or revenue-free property.

79. The receipt of any proprietor, manager, or mortgagee, whose name and the extent of whose interest is registered under this Act, shall afford full indemnity to any person paying rent to such proprietor, manager, or mortgagee.

80. Whenever any sum of money shall be payable by the Collector to the proprietors of any estate or revenue-free property jointly (otherwise than under the Land Acquisition Act, 1870), the Collector may pay to any one or more recorded proprietors or managers thereof respectively, such portion of the said sum as may be proportionate to the extent of the interest in respect of which each such proprietor or manager is registered, and the receipt of each such proprietor or manager shall afford full indemnity to the Collector in respect of any sum so paid.

81. Nothing contained in the three last preceding sections shall be held to interfere with the conditions of any written contract, or to prevent any person deeming himself entitled to any sum of money from recovering such sum by due process of law from any other person who has received the same.

82. Every amount which may become due to the Collector under the provisions of this Act in respect of any expenses incurred, of any fees payable, of any notices served, of any costs payable by any party, or of any fines imposed, shall be deemed to be a demand under section 1 of Bengal Act VII of 1868 (an Act to make further provision for the recovery of arrears of land revenue and public demands recoverable as arrears of land revenue) and shall be leviable as such.

83. The Collector may by a notice require the proprietor or manager of any estate or revenue-free property to name such estate or property by a distinctive name, and in case of failure of such proprietor or manager to comply with the requisition within the time fixed by the Collector, may name such estate or property.

84. The Collector may, by a special or a general order, delegate to any Assistant Collector, Deputy Collector, or Sub-Deputy Collector the performance of any duty and the exercise of any function which the Collector is required or empowered to perform or exercise under this Act, except in respect of appeals;

and any Assistant, Deputy, or Sub-Deputy Collector to whom any duty or function is so delegated may exercise all the powers of a Collector under this Act, except in respect of appeals.

85. Every order passed under this Act by any revenue officer below the rank of the Collector of the District (not being an officer specially vested with appellate powers as hereinafter mentioned) shall be appealable to the Collector of the district, or to any officer who may have been specially vested by the Government with special appellate powers in this behalf.

and there shall be no further appeal from any order so passed in appeal confirming the order appealed against,

but an appeal shall lie to the Commissioner of the Division against every order so passed in appeal which modifies or reverses the order appealed against.

Every order passed by the Collector of the District, or by any officer specially vested with appellate powers as aforesaid, being passed otherwise than on appeal from the order of another officer, shall be appealable to the Commissioner of the Division.

Every appeal to the Collector shall be presented within fifteen days of the date of the order appealed against;

and every appeal to the Commissioner shall be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the order appealed against;

and every appeal presented after the lapse of the time fixed by this section may be summarily rejected, unless sufficient cause shall be shown to the satisfaction of the appellate authority for admitting the appeal after the lapse of such time.

Every order passed by any officer subordinate to a Commissioner shall be subject at any time to revision and modification by such Commissioner;

and every order passed by any such officer or by such Commissioner shall be subject at any time to revision and modification by the Board.

86. In computing the period of limitation prescribed for an appeal, the day on which the order complained of was made, and the time requisite for obtaining a copy of the same shall be excluded.

87. The Lieutenant-Governor may from time to time vest any officer other than the Collector of the District with special appellate powers under this Act; and every officer so vested shall be competent to hear and decide any appeal which the Collector of the District is competent to hear and decide under this Act.

88. Within four months of the date on which this Act comes into force, the Board shall make general Rules consistent with this Act to regulate—

the form in which Registers under this Act are to be kept;

the procedure as to the presentation, admission, and verification of applications for registration under Part IV, and as to inquiries under section fifty-two,

and generally for the purposes of this Act.

The Board may from time to time cancel or alter any such rules.

89. Nothing contained in this Act, and nothing done in accordance with this Act, shall be deemed to—

(a) preclude any person from bringing a regular suit for possession of, or for a declaration of right to, any immovable property to which he may deem himself entitled;

(b) render the entry of any land in the Registers under this Act as revenue-free an admission on the part of Government of the right of the person in whose name such land may be entered, or an admission of the validity of the title under which the said land is held revenue-free;

(c) affect the rights of the Government or of any person in respect of any immovable property or of any interest, except as otherwise expressly provided herein.

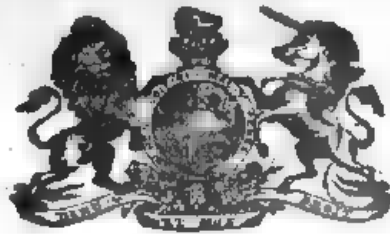
SCHEDULE OF REGULATIONS REPEALED.

See Section 2.

Number and year.	Subject or abbreviated Title.	Extent of Repeal.
XIX of 1793	Non-badshahi lakhiraj grants...	Sections twenty-one, twenty-two, twenty-nine to thirty-four; sections thirty-six to forty-one; so much of sections forty-two and forty-three as has not been repealed, sections forty-four to forty-six, all inclusive.
XXXVII of 1793	Badshahi lakhiraj grants ...	Sections sixteen to eighteen, twenty-four, twenty-six to twenty-nine; thirty-one to thirty-three, thirty-five, thirty-six; so much of section thirty-seven as has not been repealed, section thirty-eight, so much of section thirty-nine as has not been repealed, sections forty to forty-one, all inclusive.
XLVIII of 1793	A Regulation for forming a quinquennial register, &c.	So much as has not been repealed.
LVIII of 1795	Granting to the Collectors a commission on the jumma of certain lands.	So much as has not been repealed.
XV of 1797	Levyng Fees, &c. ...	The whole.
VIII of 1800	Pergunnah Register ...	So much as has not been repealed, except section nineteen.

FREDERICK CLARKE.

Offy. Asst. Secy. to the Govt. of Bengal, Legislative Dept.



The Calcutta Gazette.

WEDNESDAY, OCTOBER 11, 1876.

PART III.

Act of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[First Publication.]

The following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 26th August 1876, and having been assented to by the Governor-General on the 18th September 1876, is hereby published for general information:—

Act No. VIII of 1876.

An Act to make better provision for the Partition of Estates.

WHEREAS it is expedient to consolidate and amend the law relating to the partition of estates;

Preamble.

It is enacted as follows:—

PART I.

PRELIMINARY.

Short Title.

1. This Act may be called the "Estates" Partition Act, 1876."

It extends to the territories for the time being under the administration of the Lieutenant-Governor of Bengal;

Local extent.

And it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General, which date is hereinafter referred to as the commencement of this Act.

Commencement.

2. On the commencement of this Act, the Regulations and Acts specified in the schedule hereto annexed, to the extent mentioned in the

Laws repealed.

third column thereof, shall cease to have effect in the territories subject to the Lieutenant-Governor of Bengal, save so far as they repeal or modify any other Regulations or Acts, and save so far as regards the partition of any estate which shall be pending at the time of the said commencement.

The partition of any estate which shall be pending at the time of the commencement of this Act shall (except as provided in the next succeeding section) proceed and be completed in the same manner as if this Act had not been passed.

3. The provisions of this Act, so far as they relate to the continuation of a partition from the point which it has reached, or to the staying of the partition of an estate, or to striking a partition case off the file, may be applied, at the discretion of the Collector, in all cases of partition of estates pending at the time of the commencement of this Act, provided that before applying such provisions to the continuation of a partition the Collector give due notice in each case to the parties concerned that such provisions will be applied.

Certain provisions of Act applicable to partition cases pending at the time of its commencement.

4. In this Act—unless there be something repugnant in the subject or context—

(i) "Amin" means a person who is appointed by the Collector or Deputy Collector to make any measurement, survey, or local inquiry, or to prepare the papers showing the result of any measurement, survey, or local inquiry.

Interpretation clause.

"Amin."

(ii) "Applicant" means any person who has applied to the Collector under the provisions of this Act, for the separation from the parent estate of lands representing his interest in such parent estate, and for the assignment to him of such lands as a separate estate liable for a demand of land revenue distinct from that for which the parent estate is liable.

(iii) "Assets of land" include the rental of the land with respect to which the expression is used, and all profits derived by the proprietors out of such land from rights of pasturage, forest-rights, fisheries, and all other legal sources.

(iv) "Assets of an estate" mean the assets of all land included in an estate.

(v) "Board" means the Board of Revenue for the provinces for the time being subject to the Lieutenant-Governor of Bengal.

(vi) "Chapter" means a chapter of this Act.

(vii) "Deputy Collector" includes any Assistant Collector, Deputy Collector, or Sub-Deputy Collector whom the Collector may appoint (as he is hereby empowered to do) to effect a partition and allotment of assessment under this Act, or to conduct any of the proceedings connected with such partition and allotment.

(viii) "Estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land revenue.

(ix) "Joint undivided estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land revenue, and of which two or more persons are proprietors.

(x) "Land" does not include the houses and buildings standing thereon.

(xi) "Lieutenant-Governor" means the Lieutenant-Governor of Bengal for the time being or the person acting in that capacity.

(xii) "Parent estate" means any estate for the partition of which proceedings may be in progress under this Act, or of which the partition may have been effected under this Act.

(xiii) "Proprietor" includes every person who is in possession of any estate under partition, or of any portion of such estate, or of any interest in such estate or in any part of such estate, as owner thereof, whether such person be or be not a recorded proprietor of the estate.

(xiv) "Recorded proprietor" means a person whose name is registered on the Collector's General Register of revenue-paying lands as proprietor of an estate or of any share or interest therein.

(xv) "Section" means a section of this Act.

(xvi) "Separate estate" means any distinct estate which may be formed by the partition of a parent estate under this Act, or for the forma-

tion of which proceedings may be in progress under this Act.

(xvii) "The Collector" means the Collector of the district on the revenue-roll, of which the estate under partition, or which it is proposed to bring under partition, is borne, and includes any officer whom the Board may generally vest (as it is hereby empowered to do) with the powers of a Collector under this Act, and to whom the Collector of the district has, with the sanction of the Commissioner, delegated (as he is hereby empowered to do) any of his duties and functions in respect of the partition of any estate; and any officer whom the Board may specially vest (as it is hereby empowered to do) with the powers of a Collector for the purposes of any partition under this Act.

(xviii) "The Commissioner" means the Commissioner of Revenue to whom the Collector engaged in making the partition is subordinate.

5. All partitions of estates which shall be ordered to be made after the commencement of this Act, shall be made under the provisions of this Act, and no such partition made otherwise than under this Act shall relieve any lands from liability to Government for the total demand of land revenue assessed upon the estate of which they form a part.

6. The amount of land revenue assessed on each separate estate shall bear the same proportion to the whole amount of land revenue for which the parent estate was liable, as the assets of such separate estate bear to the whole assets of the parent estate.

7. Except as hereinafter otherwise expressly provided, the average of the amount of rent which was payable for any land by the cultivating ryots during the three years immediately preceding the year in which proceedings are taken under this Act for the partition of the estate shall, for the purposes of this Act, be deemed to be the rental of such land;

and if any land is not let, but is held and occupied directly by the proprietors or any of them, the annual rent for which such land might reasonably be expected to let shall be deemed to be the rental of such land.

Exception 1.—If the rent payable by the cultivating ryots on account of any land shall have been determined by any Court of competent jurisdiction, or shall have been altered with the consent of the said ryots at any time during the said three years, the amount so determined, or the amount to which the rent may have been so altered, may, if the Collector think proper, be deemed to be the rental of the land.

Exception 2.—If any land is held on a permanent tenure which was created by all the proprietors of the estate, and which by any law for the time being in force is protected against the purchaser at a sale for arrears of revenue, the rent payable by the holder of such tenure shall be deemed to be the rental of such land.

Exception 3.—If any land is held on a tenure which, although not protected as aforesaid, is admitted by all the recorded proprietors of the estate to be a permanent tenure created by all the

proprietors of the estate, subject only to the payment of an amount of rent fixed in perpetuity, and of such nature that the rent thereof is not liable to be enhanced under any circumstances by the proprietors of the said estate, or any person deriving his title from such proprietors, the rent payable by the holder of such tenure (whether he be known as talukdar, patnidar, mokarraridar, or by any other designation) shall be deemed to be the rental of such land.

Exception 4.—If any land be unoccupied, such amount as the Collector may determine, with reference to all the circumstances of the case, shall be deemed to be the rental of such land.

PART II.

OF THE RIGHT TO CLAIM PARTITION.

6. Except as hereinafter otherwise provided, every recorded proprietor of a joint undivided estate, who is in actual possession of the interest in respect of which he is so recorded, is entitled to claim a partition of the said estate, and the separation therefrom and assignment to him as a separate estate of lands representing the interest of which he is in such possession, provided that, and as far only as, such partition, separation, and assignment can be made in accordance with the provisions of this Act.

Any two or more such recorded proprietors may claim that lands representing the interests of all such claimants may be formed into one separate estate to be held by them as a joint undivided estate; and every provision of this Act which applies to an applicant for partition shall apply to any two or more persons making such joint claim.

9. (a) If the interest of any recorded proprietor who is entitled to claim partition as aforesaid is an undivided share in an estate held in common tenancy, such person shall be entitled to have assigned to him as his separate estate lands of which the assets shall bear the same proportion to the assets of the parent estate as his undivided share in the parent estate bears to the entire parent estate.

(b) If the interest of such recorded proprietor is the proprietary right of certain specific mouzabs or lands forming part of the parent estate, and held by him in severalty, he shall be entitled to have assigned to him as his separate estate the said mouzabs or lands.

(c) If the interest of such recorded proprietor consists of an undivided share held in common tenancy in certain specific mouzabs or tracts forming part of the parent estate, but not extending over the whole area of the parent estate, he shall be entitled to have assigned to him as his separate estate lands situated within such specific mouzabs or tracts, of which the assets shall bear the same proportion to the assets of such specific mouzabs or tracts as his undivided share in such specific mouzabs or tracts bears to the entire mouzabs or tracts.

Provided that if the interest of such recorded proprietor consists of such undivided share in more than one mouzah or tract, he shall not

be entitled to have lands assigned to him in every such mouzah or tract, but the Collector may assign to him as his separate estate lands situated in any one or more of the said mouzabs or tracts, provided that the assets of such lands are in proportion to the aggregate of the interests which he holds in all such mouzabs or tracts.

(d) If such recorded proprietor holds in the parent estate more than one of the kinds of interest specified in this section, lands shall be assigned to him as far as possible in accordance with the principles above laid down.

10. Notwithstanding anything hereinbefore contained, no person having a proprietary interest in an estate for the term of his life only shall be deemed to be a person entitled to claim partition under this Act.

11. No application for the partition of a permanently-settled estate shall be admitted, and if the application shall have been admitted, no partition shall be carried out in accordance with such application, if the separate estate of any of the proprietors would be liable for an annual amount of land revenue not exceeding one rupee, until the proprietor of such separate estate agrees to redeem the amount of revenue for which his estate would be liable, by payment of such sum as the Lieutenant-Governor may fix with reference to the circumstances of such estate.

12. Whenever a division of the lands of any estate has been made by private arrangement of the proprietors thereof, and in accordance with such arrangement each proprietor is in possession of separate lands held in severalty as representing his interest in the estate, no such estate shall be brought under partition and no partition of such estate shall be made under this Act otherwise than on a joint petition presented under section one hundred and one or section one hundred and five by all the proprietors thereof, unless such partition shall have been ordered to be made by a Civil Court.

13. The Collector may refuse to admit an application for the formation of lands held in severalty into a separate estate, if in consequence of such lands being intermingled with those held by other proprietors the result of the partition would be to form out of a compact estate one or more estates consisting of scattered parcels of land, in such a way as, in the opinion of the Collector, to endanger the safety of the land revenue, and the Collector may at any time refuse to proceed with a partition which would have such a result.

But a partition may be allowed in such a case if the recorded proprietors shall agree to such a distribution of land as shall make the estates formed by the partition reasonably compact.

Nothing in this section shall be understood to prohibit the partition into separate estates of a parent estate which before such partition is not compact and consists only of scattered parcels of land.

14. No proprietor who has alienated any portion of his interest in an estate or in any specific lands of an estate, by private contract, with the condition that the transferee shall be liable in respect of the interest acquired by him to pay a specified amount or a specified share of the land revenue for which the estate is liable (such amount or share being other than the proportionate amount or the proportionate share for which such transferred interest if formed into a separate estate would be liable under the provisions of section six);

Interest alienated with special condition as to revenue liability.

and no proprietor who has derived his title from any proprietor who has made any alienation as aforesaid, shall be entitled to claim a separation under this Act of the interest which he continues to hold in the estate;

and no such transferee as aforesaid, and no person deriving his title from such transferee, shall be entitled to claim a separation of the interest which has been so acquired:

Provided that a separation of such interests may be made, if the parties concerned agree to waive the conditions of the contract as regards the proportion of revenue for which the transferor and transferee or their representatives respectively are liable, and to hold the estates which may be allotted to them respectively by the partition, subject to the payment of such amount of land revenue as may be assessed upon them respectively by the revenue authorities under his Act.

15. Notwithstanding that a parent estate may have been declared to be under partition as provided in section thirty-one, any arrears of revenue accruing due on such estate before the date specified in the notice issued under section one hundred and twenty-three may be realized by sale of the parent estate as if such estate had not been declared to be under partition; and if such sale takes place the partition proceedings shall cease from the date thereof.

Arrears of revenue may be realized by sale of parent estate.

16. Nothing contained in the last preceding section shall be deemed to affect the provisions of sections 10, 11, 12, 13, or 14 of Act XI of 1859 (an Act to improve the law relating to sales of lands for arrears of revenue), or any provisions of any similar law for the time being in force in respect to the opening of separate accounts for different shares in an estate, and the protection afforded to such shares thereby:

Shares may be protected from liability for arrears under laws in force.

Provided that if any share in any estate is sold for its own arrears of revenue while such estate is under partition in accordance with the provisions of this Act, such share shall be sold subject to the partition proceedings, which shall proceed as if no such sale had taken place; and the purchaser of the share sold may, from the date of such sale, exercise all the rights which the proprietor whose share he has purchased might have exercised, and shall be subject to all the liabilities to which such proprietor would have been subject, in respect of the partition proceedings.

PART III.

OF THE APPLICATION FOR PARTITION; THE ADMISSION OF AN ESTATE TO PARTITION; AND THE DISCONTINUANCE OF THE PARTITION PROCEEDINGS AFTER SUCH ADMISSION.

17. All applications for partition shall be made to the Collector of the district on the revenue-roll of which the estate is borne, and shall be made in person or by duly authorized agent, on paper bearing such stamp as may be required by any law for the time being in force.

18. The application shall be signed by the applicant, and shall supply the following information in regard to the parent estate, so far as the particulars are known to the applicant or can be ascertained by him:—

- (a) name of the estate;
- (b) number under which the estate is borne on the revenue-roll, and the revenue demand for which it is liable;
- (c) number under which the estate is borne on the Collector's General Register of revenue-paying lands;
- (d) name and address of every proprietor, whether recorded or unrecorded;
- (e) the character and extent of the interest of which each proprietor is in possession;
- (f) a specification of any lands held by all or any of the proprietors of the parent estate in common with all or any of the proprietors of other estates, and of the rights of such proprietors respectively in such lands.

19. Subject to the provisions of section sixty-one, every application shall, if possible, be accompanied by a copy of the rent-roll of the estate, by a statement of the rents collected from such estate on behalf of the applicant during each of the three years immediately preceding such application, and by copies of any measurement papers of the estate which the applicant may have in his possession.

The said rent-roll, statement, and measurement papers shall be attested by the patwaris of the villages, if any, and every such application, rent-roll, and statement shall be presented, subscribed, and verified as provided in section fifty-two.

If the applicant is unable to produce a rent-roll or statement as above required, he shall state the reason of such inability, and the name and address of the person who has in his possession the information necessary for the preparation of such rent-roll and statement, and the Collector may, if he shall think fit, require such person to produce such rent-roll and statement.

20. If the application does not fulfil the requirements of the three last preceding sections, the Collector may reject such application or may order it to be amended.

21. If, in the opinion of the Collector, the application fulfils the said requirements and there appears to be no objection to making the partition, the Collector shall publish a

Collector may reject application.

Procedure of Collector on receipt of application.

notification of the application in the manner prescribed in section one hundred and thirty-four and shall also cause copies thereof to be posted up at the Court of the Judge of the district, at the Court of every Munsif and Sub-divisional Officer within whose jurisdiction, and at every Police Station within the jurisdiction of which any lands appertaining to the estate are known to be situated, and shall invite any person claiming any proprietary right in the estate, who may object to the partition, to state his objection either in person or by duly authorized agent, on a day to be specified in the notification, not being less than thirty or more than sixty days from the date of the publication of the notification on the estate.

22. Notice of the application shall also be served in the manner prescribed by section one hundred and thirty-five on such of the recorded proprietors of the estate as shall not have joined in the application, and on any other proprietor who may have been named in the application.

23. If any objection be made to the partition by any person claiming a proprietary right as aforesaid on or before the day specified in the notification published under section twenty-one, or at any subsequent time if it shall seem fit to the Collector to admit such objection, and the Collector, on consideration of such objection, shall be of opinion that there is good and sufficient reason for rejecting the application, he may reject the same, and in that case shall record the grounds of such rejection.

24. If the objection raises any question of the extent of interest, or of right or title as between any applicant and any other person claiming to be a proprietor of the parent estate, and if it shall appear to the Collector that such question has not been already determined by a Court of competent jurisdiction, the Collector may hold such inquiry as he may deem necessary into the objection, and, if he be satisfied that the applicant is in possession of the extent of the interest for the separation of which he has applied, may, instead of rejecting the application as provided in the last preceding section,

(a) direct that the partition proceedings shall proceed for the purpose of forming and assigning to the applicant a separate estate in accordance with the extent of interest claimed by him in the parent estate; or

(b) direct that such proceedings be postponed for four months.

25. At the expiration of the said four months, the Collector shall resume the proceedings, unless the person who has made the objection, or some other person, shall have obtained an order from a Civil Court directing that such proceedings be stayed, or shall be able to show that a suit has been instituted before such Court to try some question, of such nature that the Collector shall think fit to stay the proceedings until the question shall have been finally decided, or until the proceedings in such Court in respect thereof shall have terminated.

26. No suit instituted in a Civil Court by any person claiming any right or title in the parent estate, after the lapse of four months from the issue of an order of the Collector under clauses (a) and (b) of section twenty-four, or after the lapse of four months from the issue of an order of the Collector under section thirty-one declaring the estate to be under partition, shall avail to stay or affect the progress of any proceedings which shall have been taken under this Act for the partition of an estate; and all rights which may be conferred on any person by the final decree in such suit shall be subject to such proceedings in the manner hereinafter provided.

27. Every decree passed in such suit after the parent estate shall have been declared to be under partition as provided in section thirty-one, but before the date specified in the notice under section one hundred and twenty-three, shall be made in recognition of the proceedings then in progress under this Act for the partition of such parent estate, and shall be framed in such manner that the provisions of such decree may be applied to, and may be carried out in reference to the separate estates which the Collector in his proceeding under section thirty-one shall have ordered to be formed out of the parent estate;

and if the effect of any such decree be to declare any person or body of persons entitled to any extent of interest in such parent estate in excess of the extent of interest which the Collector in the said proceeding has declared to be held by such person or body of persons, such decree shall specify, separately in respect of every proprietor or body of proprietors of whose interests the Collector has separately specified the extent in the said proceeding, the proportion of such excess which such person or body of persons is entitled to recover from every such proprietor or body of proprietors;

and every person or body of persons so declared entitled to recover any extent of interest from any such proprietor or body of proprietors shall, for the purposes of the partition proceedings, be deemed to have the same rights, and to be subject to the same liabilities, as a person who has acquired such extent of interest from such proprietor or body of proprietors by private purchase after the estate was brought under partition under section thirty-one, and on the date on which the decree was passed;

and such person or body of persons may apply, as in this Act provided, for the separation and assignment to him, or them, of the lands representing the extent of interest so acquired;

and such application shall be dealt with as provided in section thirty-two.

28. Every decree passed after the date specified in the notice under section one hundred and twenty-three, in a suit which was instituted as mentioned in section twenty-six, shall be made in recognition of the partition proceedings, and shall be framed in such manner as to give effect to such division of the parent estate into separate estates as shall have been made by the Collector, and not to disturb such division; and if the

Suit in Civil Court when not to affect proceedings taken under this Act.

Notice to proprietors who have not joined therein.

Decree made while partition proceedings are in progress.

In case of valid objection being made within time allowed, application may be refused.

Procedure when objection raises any question of title or right.

When Collector to resume proceedings.

Decree made after partition proceedings completed.

effect of any such decree shall be to declare any person or body of persons to have been entitled to any extent of interest in the parent estate in excess of the extent of interest which is represented by the separate estate assigned to such person or body of persons by the Collector in the partition proceedings, such decree shall specify, separately in respect of the proprietor or joint proprietors of every separate estate formed by the partition, the proportion of such excess of interest which such person or body of persons is entitled to recover from such proprietor or joint proprietors; and every person or body of persons so declared entitled to recover any extent of interest from the proprietor or joint proprietors of a separate estate shall be entitled to recover such extent of interest out of the separate estate which has been assigned to such proprietor or joint proprietors, and out of such separate estate only;

and every such decree as aforesaid shall be executed by placing the person or persons so declared entitled to recover, in the position of a recorded joint proprietor or recorded joint proprietors of such separate estate, holding the same as a joint undivided estate in common tenancy with the proprietor or joint proprietors to whom such separate estate was assigned by the Collector in the partition proceedings, the extent of the interest of the joint proprietors respectively in such estate being such as is declared in the aforesaid decree.

29. Subject to the provisions of section eleven, a Civil Court may at any time direct the Collector to assign to any person lands representing a specified interest in any estate or in any specified village or tract of land in an estate, to be held by such person as a separate estate, or to divide off from any estate any specified villages or lands, and to assign them to any person to be held as a separate estate, provided that an application for such partition and separation shall be presented by such person, as required by sections seventeen, eighteen, and nineteen; but no Civil Court shall in any case specify the amount of revenue for which any separate estate which it may direct to be formed under the provisions of this section shall be liable.

30. The Collector shall assess the land revenue on every such separate estate in accordance with the provisions of this Act, and no Civil Court shall direct the Collector to carry out a partition otherwise than in accordance with the provisions of this Act.

31. If no objection be made within the time allowed under section twenty-one to an application for partition, or when all objections have been disposed of, and if the Collector has no reason to believe that any obstacle exists to his making the partition as applied for, he shall direct that the application be admitted, and record a proceeding declaring the estate to be under partition, for the purpose of forming and assigning to the applicant a separate estate.

In such proceeding the Collector shall declare the extent of interest in the parent estate which

he finds to be held by the applicant, or joint applicants;

and, if more than one separate application for separation shall have been made and admitted, the extent of interest which he finds to be held by every separate applicant, or body of joint applicants, respectively;

and also the extent of interest which remains to any recorded proprietor, or to any number of recorded proprietors who are not applicants;

and shall order that lands proportionate to the interest so declared to be held by each applicant, or body of joint applicants, respectively, shall be formed into a separate estate, to be assigned to such applicant, or body of joint applicants;

and that lands proportionate to the interest so declared to remain to the recorded proprietor, or the number of recorded proprietors who are not applicants, shall be left forming a separate estate.

32. If at any time after the Collector has made an order for partition under the last preceding section, any recorded proprietor in the estate, other than the original applicant, shall apply for the separation of his share, the Collector may either order that the proceedings for effecting such separation shall be carried on simultaneously with those for separating the share of the original applicant, or if he consider that such a course would entail delay in the completion of the original proceedings, he may order that no action shall be taken on such subsequent application until after the proceedings for the separation of the original applicant's share shall have been completed.

In the latter case all or any of the rent-rolls, measurements, and other papers which were used in the separation of the original applicant's share, may be used, as far as they are applicable, in the partition for which subsequent application has been made.

33. The Collector may refer any application for partition to a Deputy Collector for the purpose of making any enquiries and doing anything required by this Part; provided that every order—

- (a) rejecting an application under section twenty-three;
- (b) directing, under section twenty-four, that the partition shall proceed, or shall be postponed;
- (c) directing, under section thirty-one, that an application for partition be admitted, and declaring an estate to be under partition;
- (d) made under the first clause of the last preceding section;
- (e) appointing a Deputy Collector under the next succeeding section to carry out the partition; shall be passed by the Collector and not by any Deputy Collector.

34. As soon as the Collector has declared an estate to be under partition as provided in section thirty-one, he may appoint a Deputy Collector to carry out the partition and all or any of the proceedings necessary thereto.

35. If at any time after an order shall have been passed for making a partition all the recorded proprietors of the estate shall present a petition to the effect that they do not wish the partition to proceed, the Collector may, on the report of the Deputy Collector or otherwise, strike the partition case off the file, on payment by the proprietors of all costs and expenses incurred in and about such partition; and any such costs and expenses which shall not already have been levied as provided in section thirty-nine or section forty, shall be levied in proportion to the shares of the respective proprietors.

36. If at any time after an order shall have been passed for making a partition, it shall appear from information which was not before the Collector at the time the partition was ordered, or otherwise, that any sufficient reason exists, why the partition should not be proceeded with, the Commissioner may, on the report of the Collector or otherwise, after issuing a notice calling on the persons interested to show cause why the partition should not be struck off the file, and after considering any objections which may be made, order the partition case to be struck off the file; and in such case any costs and expenses of the partition which shall not already have been levied as provided in section thirty-nine or section forty shall be levied in proportion to the shares of the respective proprietors.

PART IV.

OF ESTABLISHMENTS FOR EFFECTING PARTITIONS AND OF THE COST THEREOF.

37. For the purposes of this Act, the Deputy Collector may, with the approval of the Collector, and subject to any rules made in that behalf by the Board, appoint such establishments as may be required for making the measurement and survey of lands, for ascertaining and recording the rates of rent, for making any other local enquiries, for the preparation of the papers and for other matters in each case; and the Collector may appoint such peshkars or other superior officers as may be required to test the work of the amins, and for the performance of similar duties; provided that the scale of remuneration of such officers, and the time for which they shall be employed, shall be sanctioned by the Commissioner.

38. In any district or division in which partitions may be so numerous or so extensive as to render necessary the appointment of special establishments in the office of the Collector or of the Commissioner, the Collector and the Commissioner may, with the sanction of the Board, appoint such establishments.

39. As soon as possible after an estate has been declared to be under partition as provided in section thirty-one, the cost of making the partition shall be estimated, and the amount shall be levied

from the proprietors in such instalments and at such times during the progress of the partition as may be fixed in accordance with any rules which the Board may make in that behalf.

If the amount first estimated is found insufficient, supplementary estimates may be made from time to time, and the required amount may be levied as above provided.

40. The cost shall be apportioned on the proprietors of each share in proportion to their shares; but whenever it shall appear to the Commissioner that the partition proceedings have been unnecessarily delayed, and the cost of the partition enhanced by obstacles vexatiously put in the way of their completion by one or more of the proprietors, or by want of due diligence on the part of one or more of the proprietors in carrying out any requisitions made upon him or them, the Commissioner may direct that such portion of the cost as he may think proper in excess of the amount proportionate to his or their share shall be levied from such proprietor or proprietors.

41. Whenever any local enquiry may be held by the Deputy Collector or any other officer, in consequence of an objection raised by any person to any record of measurements, rent-rolls, or other information which has been laid before the Deputy Collector, the Deputy Collector may declare the cost which has been incurred by such enquiry, and may direct that the entire cost so declared shall be paid by the person making the objection or by any one of the proprietors, or that such cost shall be paid in such proportions as he shall think fit, by the said person and the proprietors or any of them, or that such cost be deemed a part of the general cost of making a partition as prescribed in section thirty-nine.

42. Upon the completion of the partition, the Collector shall make an order declaring the total cost thereof. The account shall then be adjusted, either by returning to the proprietors any sums which they may have paid in excess of the total cost, or by levying from them in the manner provided in section one hundred and thirty-eight, if necessary, any sums remaining due.

43. Whenever it shall appear to the Lieutenant-Governor that in any district the work required to be done by Deputy Collectors in connection with partitions under this Act is so great that such work would, if concentrated in the hands of one or more Deputy Collectors, fully occupy the time of such one or more Deputy Collectors, the Lieutenant-Governor may make an order directing that the salary of such one or more Deputy Collectors, as the case may be, shall be recovered from the proprietors of estates under partition in such district as part of the cost of such partitions, and thereupon such charge as the Collector may think fit to make in respect of such salary shall, in addition to the items mentioned in the last preceding section, be deemed to be a portion of the costs of every partition.

For the purposes of this section the salary of every Deputy Collector shall be deemed to be the amount of salary which is drawn by a Deputy Collector of the lowest grade.

44. For the purposes of sections thirty-nine, forty, and forty-two, the costs of any partition shall be deemed to be

What are costs leviable from proprietors.

(a) the cost of any establishments entertained for the partition under section thirty-seven, or such amount as the Collector may think proper in respect of the services of any such establishments which are entertained for the purposes of making partitions in the district;

(b) all contingent expenses incurred in and about the partition, and

(c) such portion of the cost of any establishment entertained under section thirty-eight as the Collector may order.

45. Notwithstanding anything contained in the

Lieutenant-Governor may direct "Estates' Partition Fund" to be formed.

eight last preceding sections, the Lieutenant-Governor may direct that in any district a fund to be called the "Estates' Partition Fund" shall be formed, into which all sums levied from the proprietors of estates in respect of partitions of their estates shall be paid.

Whenever such a fund shall have been established in any district, all expenses of making partitions of estates in such district shall, except as hereinafter otherwise provided, be defrayed from such fund.

46. Whenever the Lieutenant-Governor shall

Procedure when Estates' Partition Fund formed in any district.

have ordered an "Estates' Partition Fund" to be formed in any district, the charges leviable from the proprietors of any estate under partition may be estimated and levied according to the estimate in each case as provided in sections thirty-nine and forty, subject to final adjustment, as provided in section forty-two; or they may be levied according to a general scale of fees to be fixed by the Board.

47. Such scale of fees shall be fixed as nearly

Scale of fees.

as may be, so that the receipts and expenditure of the said fund shall balance one another, and shall be revised from time to time by the Board for that purpose.

Such fees shall be levied from the proprietors in such instalments and at such times during the progress of the partition as may be fixed in accordance with any rules which the Board may make in that behalf, and the provisions of section forty shall be applicable to such fees.

48. An abstract of the Estates' Partition

Abstract of Estates' Partition Fund to be published.

Fund of each district made up to the end of each year shall be published in the *Calcutta Gazette*, and by being posted up at the office of the Collector of the district.

49. For the purposes of sections forty-five,

What costs of partition chargeable to Estates' Partition Fund.

forty-six, and forty-seven the expenses of making partitions in any district shall be deemed to be

(a) the cost of all establishments entertained in the district under section thirty-seven;

(b) all contingent expenses incurred in all partitions in the district;

(c) the cost of any special establishment appointed in the office of the Collector under section thirty-eight;

(d) such portion as the Commissioner may direct of the cost of any special establishment appointed in his office under section thirty-eight;

(e) the salary of any one or more Deputy Collectors which the Lieutenant-Governor may have ordered under section forty-three to be recovered from the proprietors of estates under partition.

50. Whenever any Civil Court shall make

Civil Court may in certain cases order parties to pay expenses incurred in dividing an estate.

a decree awarding or declaring any proprietary right in an estate, and shall require the Collector to make a partition of the estate, such Court may at the same time direct,

that the party or parties who may have withheld the right so decreed shall defray the whole of the expense which may be incurred in and about the partition, or the whole of the fees payable in respect of the partition under section forty-six,

or that the said expenses or fees shall be defrayed by all or any of the parties to the suit in which the decree was made in such proportions as the Court may, from a consideration of the particular circumstances of the case, deem equitable;

Copies of all orders which the Court may pass under this section shall be transmitted to the Collector for his guidance, together with the precept which the Court may issue to him, requiring him to divide the estate; and the Collector shall levy the said expenses and fees from the parties in the proportion ordered by such Court in the same manner and by the same means as if the levy of such expenses and fees had been ordered by the Collector.

PART V.

OF THE PARTITION PROCEEDINGS UP TO THE ADOPTION OF A RENT-ROLL AND MEASUREMENT PAPERS.

51. As soon as the Collector shall have

As soon as estate declared to be under partition, Deputy Collector shall cause notification to be published.

made an order under section thirty-one declaring an estate to be under partition the Deputy Collector shall cause a notification to be published in the manner prescribed by section one hundred and thirty-four, and shall also cause copies thereof to be posted up at the Court of the Judge of the district in which any lands appertaining to the parent estate are known to be situated and at the Court of every Munsif and of every Sub divisional officer within the jurisdiction of whom and at every Police station within the jurisdiction of which, any such lands are known to be situated, intimating his intention to proceed with the partition, and requiring all the proprietors of the estate to produce before a certain date, being not less than forty days from the date of such notification, either jointly or separately, copies of their rent-rolls and statements of the rents, collected during each of the three years next preceding and also copies of any measurement papers of the estate which may be in their possession.

A notice to the same effect shall also be served as provided in section one hundred and thirty-five on each proprietor of the parent estate.

The Deputy Collector may, on sufficient grounds for so doing being shown to his satisfaction, from time to time extend the period for producing any such return.

52. Every rent-roll, statement of rents collected, and measurement paper furnished to the Collector under this Act shall be presented by the person who is required to produce the same or by a duly authorized agent of such person who has a personal knowledge of the facts stated therein, and shall be subscribed and verified at the foot by such person or such agent in the manner following, or to the like effect:—

"I, A.B., do declare that this rent-roll (*statement, or measurement paper*) is correct to the best of my knowledge and belief."

If the rent-roll, statement or measurement paper shall contain any entry which the person making the verification shall know or believe to be false, or shall not believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

53. If any proprietor who is required to produce any rent-roll or statement by notice as aforesaid is unable to produce such rent-roll or statement, he shall state to the Deputy Collector the cause thereof and the name and address of the person who has in his possession the information necessary for the preparation of such rent-roll and statement, and the Deputy Collector may, if he shall think fit, require such person to produce such rent-roll and statement.

54. The Deputy Collector may, if necessary, make, or may cause to be made, a measurement of all or any of the lands comprised in the estate, and may prepare or cause to be prepared a rent-roll, and may test or cause to be tested on the spot any rent-roll which has been produced as aforesaid, and may make or may cause to be made any local enquiry which he may consider necessary.

55. Before proceeding or deputing the amin to the spot, the Deputy Collector shall publish a notification in the manner prescribed by section one hundred and thirty-four requiring the several proprietors of the estate, their managers, and any other persons employed in the management of the land, or otherwise interested therein, to attend in person or by agent upon him or upon the amin who is deputed to make the measurement or enquiry, for the purpose of pointing out boundaries and of affording such assistance and information as may be required for the purposes of this Act.

56. The Deputy Collector, and any amin or other person who is specially authorized in that behalf by the Collector, may, by a notice served as provided in section one hundred and thirty-five, require any proprietor or other person whose attendance may be required, to attend before the Deputy Collector or amin who is making such measurement or enquiry, within a specified time at any place for any of the purposes aforesaid.

57. If any objection be made to a measurement, map, or rent-roll prepared by the amin, or if for any other reason it seems desirable, the Deputy Collector shall, as soon as possible after completion of the amin's work, himself test, or shall cause to be tested on the spot such measurement, map, and rent-roll, and may accept, amend, or reject the same, or any of them. If the Deputy Collector shall deem it necessary, he may cause the work or any portion thereof to be done again.

58. The Deputy Collector may examine any person on solemn affirmation, in regard to the papers produced before him, whether by the proprietors, by the amin, or otherwise, and shall allow the parties concerned to put any necessary questions to such person.

The Deputy Collector shall also allow any proprietor or other person interested to examine the papers so produced, and to take a copy of the same, and after such examination shall hear any objections which any of the persons interested may make in respect of such papers, and shall decide whether any, and (if any), which of the papers as they stand, or with such modifications as he may think necessary, shall be accepted as correct for the purposes of the partition.

59. If any proprietor who has been required to produce a rent-roll or statement under section fifty-one, fails to produce the same after the imposition on him of a fine under section one hundred and thirty-seven for thirty days, or fails to state to the Deputy Collector the name and address of any person under section fifty-three, the Deputy Collector may declare that the said proprietor shall, for the purposes of the partition, be bound by such rent-roll as the Deputy Collector may adopt as the basis of the partition as hereinafter provided, and after such declaration any officer exercising authority under this Act may refuse to entertain any objection which such proprietor may make to such rent-roll.

60. If any person who has been required to produce a rent-roll or statement under section fifty-three shall fail to produce the same after the imposition on him of a fine under section one hundred and thirty-seven for thirty days, the Deputy Collector may declare that the proprietor who may have stated the name of such person under section fifty-three shall, for the purposes of the partition, be bound by the rent-roll which the Deputy Collector may adopt for the basis of the partition as hereinafter provided, and after such declaration any officer exercising authority under this Act may refuse to entertain any objection which such proprietor may make to such rent-roll.

61. Notwithstanding anything contained in this Act, if it shall appear to the Deputy Collector that any measurements, maps, rent-rolls, or other papers relating to the estate which have been prepared otherwise than for the purposes of the partition, or otherwise than for the purposes of this Act, afford

information sufficiently trustworthy to enable him to effect the partition, the Deputy Collector may adopt such information and such papers either wholly or in part for the purposes of the partition, and may dispense with any rent-rolls, maps, or other papers for which he is authorized to call, or which an applicant is required to produce under this Act.

62. No proprietor or other person, who shall have failed to attend in person or by agent during the measurement as required by the notification published under section fifty-five, shall be entitled at any subsequent time to make any objection to such measurement, but the Collector may admit any objection made by such proprietor or person if he think fit, provided that any expense entailed by a local inquiry made in consequence of such subsequent objection shall be paid entirely by such proprietor or person.

63. When the Deputy Collector is finally satisfied that the papers before him, whether rent-rolls, measurement papers, maps, or other papers are sufficient and sufficiently correct to be accepted or adopted for the purposes of the partition, he shall make an order to that effect, and shall fix a day on which to determine the general arrangement of the partition, and shall publish a notification in the manner prescribed by section one hundred and thirty-four, calling on all the proprietors to be present on the day so fixed, such day being not less than thirty or more than sixty days after the publication of the notification in his office, and shall serve a notice to the same effect on each proprietor or his agent.

PART VI.

OF PARTITION BY AMICABLE ARRANGEMENT OR BY ARBITRATION.

64. On the date fixed under the last preceding section, if a petition to that effect signed by all the recorded proprietors shall have been presented, the Deputy Collector may allow such proprietors to make a private partition of the estate amongst themselves on the basis of the papers which have been accepted or adopted for the purposes of the partition by the Deputy Collector, or may refer the partition to be made by an arbitrator or arbitrators on such basis.

If the proprietors who have elected to make such private partition shall fail to make the same within such time as may be fixed by the Deputy Collector, the Deputy Collector may refer the partition to be made by an arbitrator or arbitrators, or may make the partition himself.

65. Whenever any partition shall have been referred to arbitration, the proceedings shall be conducted in accordance with the provisions of sections 313 to 325 (both inclusive) of Act VIII of 1859 (an Act for simplifying the procedure of the Court of Civil Judicature not established by Royal Charter) as far as those provisions are applicable, and except as herein otherwise expressly provided

66. The arbitrators shall deliver, within a time to be fixed by the Deputy Collector, which time may be further extended by him, a full and complete paper of partition, in such form as may be prescribed by the Board for partitions made by the Collector or Deputy Collector.

67. The arbitrators, on delivering the paper of partition as aforesaid, shall be entitled to reasonable fees for their services, the amount of which shall be fixed, with the approval of the Commissioner, by the officer making the reference to arbitration, and shall be considered to form part of the cost of making the partition.

68. Every partition made under the provisions of this Part by the parties or by arbitrators appointed by them, shall be subject to the approval of the Deputy Collector and to the confirmation of the Collector and the orders of the superior revenue authorities; provided that neither the Deputy Collector nor any other authority shall disallow any partition so made on any other ground than that of fraud, or that, in the opinion of the Deputy Collector or such other authority, the partition cannot be confirmed without endangering the safety of the land revenue.

69. Whenever a partition has been made under the provisions of this Part, the land revenue shall be assessed by the Collector on each separate estate into which the parent estate is divided by such partition in the manner prescribed by section six.

70. If the paper of partition be not delivered within the time fixed by the Deputy Collector, or within any further period to which the time may have been extended, the Deputy Collector may withdraw the case from arbitration and may make the partition himself.

PART VII.

OF THE PROCEDURE FROM THE DETERMINATION OF THE GENERAL ARRANGEMENT OF THE PARTITION BY THE DEPUTY COLLECTOR TO THE APPROVAL OF THE PARTITION BY THE COLLECTOR.

71. If no petition shall have been presented under section sixty-four, the Deputy Collector shall, on the date fixed under section sixty-three, or on any other date to which the hearing may have been postponed by a notice posted at the office of the Deputy Collector, consult orally each proprietor present, and endeavour, as far as possible, with the concurrence of the proprietors present, to settle a general arrangement of the partition in accordance with the requirements of this Act.

For this purpose he shall endeavour to obtain from each proprietor an acknowledgment of his acceptance of the rent-roll, map, and any other papers which have been adopted by the

Deputy Collector for the purposes of the partition, and shall briefly record the objections of any proprietor who still objects to accept such rent-roll, map, or other papers.

72. If, in consequence of any objections made before the Deputy Collector has settled the general arrangement of the partition provided in the last preceding section, the Deputy Collector considers it necessary to make further inquiry, he may, by notice to the recorded proprietors, postpone the settlement of the general arrangement of the partition to a date being not less than fifteen days from the service of the notice on any proprietor.

73. If the objections on account of which the said settlement is postponed are such that the person making the same might have made them on an earlier day, the Deputy Collector may award to each proprietor who shall have attended in person or by agent in accordance with the notice, such sum, not exceeding sixteen rupees, as he shall think fit by way of compensation for such attendance.

The sum so awarded shall be paid by the person making the objections as aforesaid, and may be recovered from him in the manner provided by section one hundred and thirty-eight.

74. If the objections have already been enquired into and disposed of, or are such as not to render necessary any further inquiry and postponement, or when any objections which may require further enquiry have been disposed of, the Deputy Collector shall record an order to that effect, and after hearing what each proprietor present may urge, shall hold a proceeding determining the general arrangement of the partition and the mode in which the parent estate shall be divided, and, in a general way, the position of the lands which shall be assigned to each of the separate estates.

In determining the general arrangement of the partition, the Deputy Collector shall be guided by the rules which are laid down in Part VIII, and shall direct the partition to be made in the manner which, in his opinion, is on the whole most in accordance with such rules, and most equitable and most convenient to all parties concerned.

75. The general arrangement of the partition as determined under the last preceding section, shall be submitted for the sanction of the Collector, who shall by notice fix a date for the consideration of the same, not being less than fifteen days after the publication of the said notice in his office, and after hearing and disposing of any objection which may be preferred, shall pass such orders as he may think proper, setting aside, amending, or approving the general arrangement made by the Deputy Collector.

76. When the general arrangement has been approved by the Collector, the Deputy Collector shall proceed to fix the exact boundaries of each separate estate, after considering the wishes which the parties may express in respect thereof.

77. When the Deputy Collector shall have so determined the boundaries, he shall cause to be drawn up a paper of partition specifying in detail the villages and lands which he has included in each of the separate estates, the rental thereof, with any other assets of each separate estate, the name or names of the recorded proprietor or proprietors of each separate estate, any stipulations which may have been made regarding pieces of worship, tanks, or other matters as mentioned in Part VIII, and the amount of land revenue to be assessed on each separate estate; he shall also prepare a map showing the lands which fall within each separate estate and the boundaries thereof, unless the preparation of such map shall be dispensed with by special permission of the Collector.

78. The Deputy Collector shall submit the partition paper and map as aforesaid and all other papers of the partition to the Collector with a full report of the proceedings taken, the reasons which influenced the Deputy Collector in selecting the lands included in each separate estate, the nature of the accounts upon which the apportionment of the land revenue assessed thereon has been based, and all other particulars material to the case.

79. The Deputy Collector shall at the same time cause to be prepared a separate extract of the portion of the partition paper which relates to each separate estate,

and shall cause to be tendered to any recorded proprietor of a separate estate, or any authorized agent of such proprietor, who may be in attendance at the Deputy Collector's office, the extract which relates to such separate estate;

and the Deputy Collector shall publish a notice at his office calling upon every proprietor to whom or to whose agent an extract from the partition paper has not been tendered as above mentioned, to take out of the Deputy Collector's office the extract of the portion of the partition paper relating to his separate estate.

If the circumstances of the partition so require, an extract of the map prepared by the Deputy Collector, or a copy of such map, shall be annexed to every separate extract from the partition paper herein mentioned.

80. On receipt of the papers and report mentioned in section seventy-eight, the Collector shall cause a notification to be published in the manner prescribed by section one hundred and thirty-four fixing a date, not being less than six weeks from the date of the publication of such notification on the parent estate, on which he will proceed to take up the case, and to consider any representations and objections which may be preferred in respect of the partition made by the Deputy Collector, and calling on all parties concerned who may wish to do so, to inspect the papers at his office before such date, and to take copies of any such papers as they may require.

The Collector shall also cause a notice to the same effect to be served on each of the recorded proprietors.

81. On the date so fixed, or on any other date to which the hearing may have been postponed, the Collector shall take into consideration the papers as laid before him, and after calling for any further information which he may deem necessary, and disposing of any objections which shall be made to the proposed partition and allotment of land revenue, may approve the partition as made by the Deputy Collector with such amendments as he may think proper, or return it for amendment to the Deputy Collector who made it, or to another Deputy Collector, or make a fresh partition himself.

The Collector may return the said papers for amendment or enquiry as often as he may think fit.

82. No proprietor who shall have failed to appear before the Deputy Collector in person or by agent on any date fixed for the arrangement of the partition under section sixty-three or section seventy-two, and no proprietor who shall have failed so to appear before the Collector on any date fixed under either of the two last preceding sections, shall be entitled, at any subsequent time, to make any objection to the orders which may be passed on such dates respectively.

83. When the Collector approves the partition made by the Deputy Collector with amendments, he may cause a fresh partition paper and map to be prepared, or may cause the amendments made by him to be noted on the paper and map submitted by the Deputy Collector.

When the Collector makes a fresh partition himself, he shall cause a fresh partition paper and map to be prepared.

84. Whenever the Collector shall have approved a partition (whether with or without amendments), he shall cause a notice to be served on each of the recorded proprietors that the papers will be submitted at once for confirmation of the partition by the Commissioner, and that any appeals or objections must be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the date of the service of the said notice, or, if the Collector has approved the partition with amendments, and the notice requires the proprietor to produce the extract of any partition in order that amendments may be noted thereon, or to take out a fresh extract from the partition paper, as provided in the next succeeding section, then within six weeks of such date.

85. Whenever the Collector shall have approved a partition with amendments, and shall, under section eighty-three, have caused such amendments to be noted on the partition paper and map submitted by the Deputy Collector, the notice to be served on each of the recorded proprietors under the last preceding section shall, in the case of every such proprietor whose separate estate is affected by such amendments, in addition to the particulars mentioned in the said section, require such proprietor to produce before the Collector, within fifteen

days of the service of such notice, the extract from the paper of partition which has been prepared, and any map relating to his separate estate which may have been prepared, under section seventy-nine, in order that the amendments made by the Collector in the partition may be noted thereon; and such amendments shall be noted thereon by the Collector accordingly, and such extract and map shall be returned to the proprietor who produced them.

Whenever the Collector shall have caused, under section eighty-three, a new partition paper and map to be prepared, he shall order separate extracts from the portions of the partition paper which relate to each separate estate, and maps, if necessary, to be prepared as required by section seventy-nine, and in such case the notice served under the last preceding section shall, in addition to the particulars mentioned in that section, declare the extracts and maps which were furnished or offered to proprietors under section seventy-nine to be cancelled, and shall require the recorded proprietors to take out of the Collector's office such extracts and maps relating to their respective separate estates.

86. As soon as practicable after the issue of the notice under section eighty-four the Collector shall forward to the Commissioner all papers relating to the partition as approved or as made by the Collector.

PART VIII.

OF THE GENERAL PRINCIPLES ON WHICH PARTITIONS SHALL BE MADE.

Rules applicable to the partition of lands which are held by the proprietors in common tenancy.

87. Each separate estate shall be made as compact as is compatible with the primary object of making an equitable partition among the proprietors, and with the other provisions of this Part, but no partition made or approved by a Collector shall be set aside on the ground only that the separate estates are not compact.

88. In selecting the villages or lands to be assigned to each separate estate formed out of a parent estate which has been held in common tenancy, the Collector shall take into consideration

the advantages or disadvantages arising from situation;
the vicinity of roads, railways, navigable rivers or canals;
the nature and quality of the soil and produce;
the quantity of cultivable and uncultivable waste land;
the facilities for irrigation;
the state of the embankments and water courses;
liability to accretion and diluvion,
and any other circumstances affecting the value of the lands.

89. If a dwelling-house belonging to a proprietor is situated on any land which it may be necessary to include in a separate estate of another proprietor, the owner of such

Procedure of Collector thereupon.

Proprietor when not entitled to make subsequent objection.

Collector may cause a fresh partition paper and map to be prepared.

Procedure when Collector approves of a partition without amendment.

Procedure when Collector approves partition paper with amendments.

Papers to be forwarded to Commissioner.

Estates formed in course of partition to be as compact as possible.

Circumstances to be considered in making partitions.

Rule when dwelling-house belonging to one proprietor is situated on ground to be allotted to another proprietor.

house may retain occupation thereof with the offices, buildings, and grounds immediately attached thereto, upon agreeing to pay rent for the land occupied by such dwelling-house, offices, buildings, and grounds to the proprietor of the separate estate in which such land is included.

The limits of the land so occupied and the rent to be paid for it in perpetuity shall be fixed by the Deputy Collector, and shall be stated in the paper of partition.

In every such case a defined pathway shall, as far as possible, be secured to the owner of the house, leading from his house to some portion of the separate estate allotted to him.

90. Whenever the Deputy Collector shall think fit, he may apply the rule contained in the last preceding section to gardens, to orchards of trees, to land planted with bamboo, and to any other lands which in his opinion are of special value to the proprietor in whose occupation they are found to be, in consequence of improvements made by such proprietor or of the particular use to which such lands are put.

91. The rent fixed in perpetuity on any land by the Deputy Collector under either of the two last preceding sections shall be considered to be the rental of such land for the purposes of the partition.

92. Whenever the dwelling-house of one proprietor, with the offices, buildings, and grounds immediately attached thereto, shall have been included in the separate estate of another proprietor, and the annual rent to be paid in perpetuity in respect of the land occupied thereby shall have been fixed by the Deputy Collector and stated in the paper of partition, the proprietor whose dwelling-house, offices, buildings, and grounds have been included as aforesaid may apply to the Deputy Collector for permission to redeem the annual rent so fixed, and the Deputy Collector shall give such permission, unless he shall be of opinion that such redemption would endanger the safety of the land revenue for the payment of which the separate estate in which such dwelling-house, offices, buildings, and grounds have been included will be liable.

93. If the Deputy Collector shall see no such reason to refuse his permission to the redemption being made, he shall certify the amount payable by such proprietor in redemption of such annual rent; and such amount shall be calculated and fixed by the Deputy Collector at ten per centum above the sum which would be required to purchase, at the market prices then prevailing, so much stock of the Government loan which was last issued as would yield an annual amount of interest equal to the annual land rent fixed by the Deputy Collector under section eighty-nine.

94. The proprietor desiring to redeem the rent as aforesaid, may pay to the Deputy Collector the amount so certified at any time before possession is given to the several proprietors of the separate estates allotted to each, as provided in section one hundred and twenty-three, but not after such possession has been given.

95. On receipt of such payment, the Deputy Collector shall give notice to the proprietor in whose separate estate such land is situated that such payment has been made, and that the sum will be paid to him or to his authorized agent on application; and that from the date on which possession as aforesaid may be given, the proprietor who has redeemed the rent of such land will be entitled to hold such land as a rent-free tenure secured against the proprietor of the estate and against any auction purchaser at a sale for arrears of revenue, including the Government; and from such date the lands shall be so held as a rent-free tenure.

96. The Deputy Collector shall at the same time also give notice to the Collector of the district of the creation of such tenure; and the Collector of the district shall thereupon cause such tenure to be specially registered in the manner provided by section 42 of Act XI of 1859, or by any similar law for the time being in force.

97. When two or more of the separate estates shall consist of the same proportions of the parent estate, the Deputy Collector may, if he thinks proper, direct the parties entitled thereto respectively to draw lots in his presence for the equal separate estates which have been formed by assignment of lands, unless the recorded proprietors of the equal shares shall agree among themselves as to the allotment of the equal separate estates and shall present a petition to that effect; or unless for any other reason the Deputy Collector shall, with the sanction of the Collector, think proper to assign the equal separate estates to the proprietors of the equal shares without causing lots to be drawn.

98. When the aggregate of two or more shares equals one other share or equals the aggregate of two or more other shares, the Deputy Collector, with the sanction of the Collector, may cause such aggregate shares to be treated as one share for the purpose of determining by lots as aforesaid which portion of the parent estate shall be assigned to each proprietor as his separate estate;

and may decide which shares shall be formed into one aggregate share for the purpose of causing such lots to be drawn;

and may cause lots to be drawn in like manner as often as he shall think proper for such purpose.

And after lots shall have been drawn once (or more than once if necessary) as aforesaid, the Deputy Collector shall proceed to divide the portion of the parent estate which has fallen by lot to each aggregate share, among the proprietors of the different shares which were formed into such aggregate share for the purpose of drawing lots, and shall assign to every such proprietor his separate estate within such portion in such position as the Deputy Collector may think proper.

Provided that lots shall in no case be drawn until after full opportunity shall have been given to the proprietors to advance their objections in respect of the papers accepted as the basis of the partition and in respect of the assets of the different lands as stated in such papers, and until any such objections which may have been made shall have been disposed of.

Illustrations.

I.—The partition of a parent estate is being made into the following shares:—

8 annas.
4 annas.
3 annas.
1 anna.

For the purposes of drawing lots, the 4 annas, 3 annas, and 1 anna share may be taken together, and considered to be an aggregate 8 annas share.

The Deputy Collector will divide the parent estate into two halves of equal value; and will then cause lots to be drawn, in order to determine which of the two halves shall be assigned to the proprietor of the integral 8 annas share, and which shall be divided among the proprietors of the 4 annas, 3 annas, and 1 anna shares.

Subsequently, if necessary, the Deputy Collector may again cause lots to be drawn by the proprietor of the 4 annas share on the one hand, and the proprietors of the aggregate share made up by taking together the 3 annas share and the 1 anna share.

II.—The partition is being made of a parent estate into the following shares:—

6 annas.
4 annas.
3 annas.
2 annas.
1 anna.

Two tracts in the estate may first be marked off, the value of each being equivalent to a 6 annas share, and then, for the purpose of drawing lots in respect of the assignment of these two tracts, the 4 annas share and the 2 annas share may be taken together as an aggregate 6 annas share, and lots may be drawn between the proprietor of the aggregate 6 annas share so formed on the one hand, and the proprietor of the integral 6 annas share on the other.

One of the two 6 annas tracts having thus been finally assigned to the proprietor of the integral 6 annas share, the Deputy Collector will proceed to assign the rest of the estate among the remaining sharers, and he may again, for the purpose of causing lots to be drawn mark off two tracts the value of each of which shall be equivalent to 5 annas of the parent estate, and may cause lots to be drawn for these two tracts between the proprietors of the 4 annas share and the 1 anna share taken together as an aggregate 5 annas share on the one hand, and the proprietors of the 3 annas share and the 2 annas share taken together as another 5 annas share on the other.

Finally, their separate estates will be assigned to the proprietor of the 4 annas share and of the 1 anna share respectively, within the tract which fell to them jointly by lot; and their separate estates will be assigned to the proprietors of the 3 annas share and of the 2 annas share respectively within the tract which fell to them jointly by lot.

99. The Deputy Collector may, by a notice

Deputy Collector may require proprietors to attend or appoint agent for the purpose of drawing lots.

served as provided in section one hundred and thirty-five, require any proprietor in respect of whose share lots are to be drawn as provided in either of the two last preceding sections, to attend at the office of the Deputy Collector in person or by authorized agent at a time to be fixed by the Deputy Collector for the purpose of drawing lots;

and may similarly require the proprietors of any shares which he may have ordered to be formed into an aggregate share for the purpose of drawing lots, jointly to appoint an agent to draw lots on their joint behalf; and if at the time fixed for drawing such lots such proprietors have failed to agree to any such joint appointment, or shall fail to cause the attendance of an agent authorized to act jointly for all such proprietors, all such proprietors shall be deemed to have failed to comply with the Deputy Collector's requisition.

100. Whenever any proprietor or proprietors shall have failed to comply with a requisition of the Deputy Collector under the last preceding section, the Deputy Collector may appoint a person to draw lots on behalf of such proprietor or proprietors.

Rules applicable to the formation into separate estates of lands which are held by proprietors in severalty.

101. Whenever in any parent estate a division of the lands thereof has been made by private arrangement of the proprietors of such estate, and in accordance with such arrangement each proprietor is in possession of separate lands held in severalty as representing his interest in such parent estate, the joint application presented to the Collector by all the recorded proprietors of such estate as required by section twelve may be to the effect that a partition of such estate be made by assigning to each proprietor or to two or more proprietors jointly as his or their separate estate, the lands of which they are in separate possession in accordance with such arrangement, and also that each separate estate so formed be made liable for such portion of the entire land revenue of the parent estate, as was paid by the proprietor or proprietors thereof under the private arrangement aforesaid.

102. The Deputy Collector who is appointed to carry out the partition in accordance with such application, shall satisfy himself that the assets of each separate estate which it is proposed to form are sufficient to secure the payment of the annual amount of land revenue for which it is proposed to make such separate estate liable, and if the Deputy Collector be satisfied that in this respect, and with reference to all the circumstances of the case, that the partition of the lands and the assessment of the revenue thereon may be made in the manner proposed without endangering the safety of the revenue, the Deputy Collector shall submit the case with his opinion thereon, and the reasons on which such opinion is founded, to the Collector, who may admit or reject the said application.

103. If the Collector admits the said application, such admission shall be deemed to be the Collector's approval of the general arrangement of the partition as provided in section seventy-five, and the Deputy Collector shall proceed to complete the partition accordingly.

104. If the Deputy Collector, who is appointed to carry out the partition in accordance with a joint application under section one hundred and one, is not satisfied that the partition of the lands and the assessment of the revenue payable thereon can be made in the manner proposed without endangering the safety of the public revenue, or if the Collector rejects the application for such partition, the Deputy Collector shall refuse to make the same.

105. Whenever the proprietors of an estate

Joint petition may be presented for partition of land in accordance with private division with proportional redistribution of public revenue.

are, in accordance with a private arrangement as aforesaid, respectively in possession of separate lands held in severalty as representing their respective interests in the estate, the joint application presented to the Collector by all the recorded proprietors of the estate as required by section twelve, may be to the effect that a partition of such estate be made by assigning to each proprietor, or to two or more proprietors jointly, as his or their separate estate, the lands of which they are in possession in accordance with such arrangement, and that the land revenue for which the parent estate is liable may be apportioned among the separate estates so formed in accordance with the provisions of section six.

A joint application under this section may be made notwithstanding that a joint application under section one hundred and one has been refused in respect of the same estate.

106. Whenever the Deputy Collector who is

Lands of which each proprietor is in possession to be allotted to him.

appointed to carry out a partition, shall find that in accordance with a private arrangement made by the proprietors of an estate, the proprietors respectively, or any of the proprietors, are in possession of separate lands held in severalty as representing portions only of their respective interests in the parent estate, while other lands of the parent estate are held in common tenancy between such proprietors, a joint application as mentioned in section twelve shall not be necessary to authorize the Collector to make a partition of the estate, but the Deputy Collector shall allot to the separate estate of each proprietor the lands of which such proprietor is found to be in possession in severalty, in accordance with such private arrangement.

Lands held in the occupation of the several proprietors of an estate as sir, khamar, or nij-jote, or under any other similar denomination, shall not be deemed to be lands held in severalty as representing portions of their respective interests in the parent estate within the meaning of this section, which applied only to cases in which there has been a *bona fide* division, by private arrangement among the proprietors, of lands held by tenants.

107. Notwithstanding anything contained in

Collector may cause transfer of lands agreed to by parties.

the last preceding section, the Collector may cause any transfer of lands agreed to by the parties to be made from the possession of one proprietor to that of another.

Rules applicable both to lands held in common tenancy and to lands held in severalty.

108. Places of worship, burning grounds, and

Rule as to places of worship.

burial grounds which have been held in common previous to the partition of an estate, and lands of which the proceeds have been assigned by the proprietors jointly for religious, charitable, or public purposes, shall continue to be held in common, unless the proprietors shall otherwise agree amongst themselves, in which case they shall state in writing the agreement into which they have entered, and the Deputy Collector

shall enter a note of the agreement in the paper of partition.

109. Tanks, wells, water-courses, and embank-

Rule as to tanks, wells, water-courses, and embankments.

ments shall be considered as attached to the land for the benefit of which they were originally made.

In cases in which, from the extent, situation, or construction of such works, it shall be found necessary that they should remain the joint property of the proprietors of two or more of the separate estates, the paper of partition shall specify, as far as the circumstances may admit, the extent to which the proprietors of each of such estates may make use of the same, and the proportion of the charges for repairs to be borne by them respectively.

110. Whenever the Deputy Collector shall

Lands held rent-free not to be divided.

find in the parent estate lands which are actually held rent-free (whether the pro-

prietors of the estate do or do not claim a right to receive rent from such lands), the Deputy Collector shall make no division or assignment of such lands among the separate estates, but shall specify in the partition papers and proceedings that such lands are left appertaining jointly to all the separate estates which are formed out of the parent estate, in the proportion which each separate estate bears to the parent estate.

Provided that such lands or any of them may be allotted among the different separate estates with the consent of all the recorded proprietors of the parent estate, but not otherwise.

111. Whenever the Deputy Collector shall

Rule as to permanent intermediate tenures.

find in the parent estate any lands which are held at a fixed rent on a putni or

other permanent intermediate tenure falling within Exception 2 or Exception 3 of section seven, the Deputy Collector may either

(1) assign the lands which are held on such tenure and the assets thereof entirely to one or more of the separate estates, the rental being calculated as provided in Exception 2 or in Exception 3 (as the case may be) of section seven; or

(2) leave such lands unassigned to any separate estate, and specify in the partition paper and proceedings that the lands are left appertaining jointly to all the separate estates which are formed out of the parent estate in the proportion which each separate estate bears to the parent estate. In the event of such lands being so left undivided, the Deputy Collector shall assign to each separate estate such share of the rental of the tenure as shall bear the same proportion to the entire rental of the tenure, as the separate estate bears to the parent estate.

In dealing with a tenure under this section, the Deputy Collector shall take into consideration the extent of the lands comprised in the tenure, and all other circumstances of the case.

112. Whenever any lands are held in common

Lands held in common between the proprietors of two or more estates how to be dealt with.

between the proprietors of two or more estates, one of which is under partition in accordance with the provi-

sions of this Act, the Deputy Collector shall first allot to the estate under partition a portion of such common lands of which the assets are in proportion to the interest which

the proprietors of such estate hold in the said common lands; and all the provisions of this Act in respect of the allotment between the shareholders in one estate, of lands which are held jointly by such shareholders, shall, as far as possible, apply to the allotment of the proportionate share of such common lands to the estate under partition;

and, in respect of the service of notices, hearing of objections, and all other procedure in view to such allotment, the proprietors of the estate under partition, and the proprietors of all other estates who have an interest in the said common lands, shall be deemed to be joint proprietors of a parent estate consisting only of the lands so held in common.

Provided that all expenses of any division of lands so held in common between the proprietors of two or more estates shall be deemed to be expenses of making the partition of the estate which is under partition, and shall be leviable as provided by this Act from the proprietors of such estate, and the proprietors of any other estate having an interest in such lands shall not be required to bear any portion of such expenses.

113. Notwithstanding anything contained in the last preceding section, if it shall appear to the Commissioner, on the report of the Collector or otherwise, that the proceedings for such division have been unnecessarily delayed, and the cost of such division enhanced by obstacles vexatiously put in the way of the completion of such division by any proprietor of any estate other than that under partition, or by want of due diligence on the part of any such proprietor in carrying out any requisitions made upon him, the Commissioner may direct that such sum as he shall think fit shall be levied from every such proprietor who is responsible for such delay or additional cost, and every sum so levied shall be taken in diminution of the amount payable by the proprietors of the estate under partition as costs of such partition.

114. The allotment to the estate under partition of the proportionate share of the lands so held in common shall be submitted for the approval of the Collector who may confirm, amend, or reject the same, and in the case of rejection, may make or direct to be made another allotment.

115. As soon as the allotment to the estate under partition of a proportionate share of the said lands shall have been approved by the Collector, the lands so allotted shall be dealt with in every respect as if they were held in common tenancy by such of the proprietors of the estate under partition as were found to hold interests in the common lands.

116. If a dispute or doubt shall be found to exist as to whether any lands form part of the parent estate, the Deputy Collector shall enquire into the fact of possession, and shall report his conclusions, with the reasons thereof, to the Collector; whereupon the Collector may (whether the possession of

disputed lands is with the proprietors of the parent estate or otherwise) order that the partition be struck off the file, and in that case no application for a partition of the said estate shall be admitted until the applicant can show that the dispute or doubt has been decided by a court of competent jurisdiction, or has been amicably settled;

or, if the Collector shall find that possession of the disputed lands is with the proprietors of the parent estate, and if it shall appear to him that the claim of the other parties to the right in such lands is untenable, he may order that the partition shall proceed, and that the disputed lands be treated as part of the estate under partition.

Provided that no partition shall be made under this section, if such partition would involve the assignment to any separate estate of such a quantity of the disputed land that the removal of such land from such estate would, in the opinion of the Collector, endanger the safety of the land revenue for which such estate would be liable after the partition.

117. If, after a partition has been completed in accordance with an order passed by the Collector under clause three of the last preceding section, the proprietor of any separate estate shall be dispossessed by a decree of a court of competent jurisdiction of any lands which may have been assigned to his estate by the partition, such proprietor shall not be entitled to claim any modification of the partition (which shall hold good), but shall be entitled to recover from the proprietors of the other separate estates formed by the partition such compensation as may be fair and equitable having regard to the reduction in the proportionate value of his separate estate which is caused by such dispossession;

and such compensation may be recovered in a court of competent jurisdiction from the proprietors of those separate estates on which a proportionate share of the total loss caused by the order of dispossession does not fall.

PART IX.

OF THE PROCEDURE BEFORE THE COMMISSIONER UP TO THE COMPLETION OF THE PARTITION.

118. If no appeal or objection shall be presented within the time allowed by section eighty-four, the Commissioner may proceed to consider the case without issue of any notice, and may confirm the partition made by the Collector.

119. If it shall appear to the Commissioner that the proceedings of the Collector should be amended, or if a petition of appeal or an objection shall have been presented within the time allowed by section eighty-four, the Commissioner shall fix a day for hearing and disposing of the case, and shall cause a notification of the same to be published and a notice of the same to be posted up in his own office.

120. On the day so fixed, which shall not be less than thirty days after the publication of the said notification at the office

Procedure when dispute exists as to whether any lands form part of the parent estate.

Procedure when Collector thinks that lands belong to parent estate.

Procedure when partition completed and proprietor of an estate dispossessed by order of a competent court.

The portion of such common lands assigned to estate under partition how to be dealt with.

If no appeal presented, Commissioner may consider the case without issue of notice.

Commissioner to fix a day for hearing case.

Commissioner to confirm, amend, or return petition.

of the Collector, or on any subsequent day to which the hearing of the case may extend, or on any subsequent day to which the hearing may have been postponed by a notice published in his own office, the Commissioner shall, after hearing and disposing of all objections, and calling for any further information which may be necessary, either confirm the partition as made by the Collector or amend the same, or return the papers of the partition to the Collector for any changes the Commissioner may think proper to be made.

If the partition is returned to the Collector for amendment, the Collector shall proceed to make the said amendments, or to cause them to be made in the same manner as if he had himself passed such orders on a partition submitted to him for approval by a Deputy Collector.

121. The Commissioner may, before confirming a partition, return the papers for amendment or inquiry as often as he shall think fit, and as often as he shall so return them the procedure prescribed in the three last preceding sections shall be followed.

122. After the expiration of not less than sixty days from the date of the order of the Commissioner confirming a partition, or, if an appeal has been preferred to the Board, or if any proceedings in respect of the partition be pending before the Board, then on receipt of the final order of the Board determining that the partition as sanctioned by the Commissioner shall not be disturbed, the Collector shall cause to be published in his office, and in some conspicuous place in each of the estates separately constituted by such order, a notice that the partition has been finally confirmed as it was sanctioned by the Commissioner, or with any amendments or alterations, as the case may be.

If the partition as finally sanctioned involves any amendments which may conveniently be made on the extracts of the partition paper and on any maps which have been prepared and delivered or offered by notice to the recorded proprietors as required by section seventy-nine or section eighty-five, the Collector shall cause a notice to be served on every recorded proprietor whose estate is affected by such amendments requiring him to produce such extracts and maps in order that such amendments may be noted on them;

and if the alterations made in the partition as finally sanctioned be such as to make it desirable to prepare fresh extracts and maps as aforesaid, the Collector shall cause such fresh extracts and maps to be prepared; and shall cause a notice to be served on each proprietor declaring the extract and map which was furnished or offered to him under section seventy-nine or section eighty-five, as the case may be, to be cancelled, and requiring him to take out of the Collector's office the fresh extract and map which have been prepared.

123. The Collector shall then proceed to give the several proprietors possession of the separate estates allotted to each, and if necessary, may require the assistance of the Magistrate in giving such possession; and shall cause to be served on every recorded

proprietor of a separate estate a notice informing him that from the date specified in such notice, the separate estate assigned to him (as described in the extract from the partition paper prepared and delivered or offered to him under section seventy-nine, section eighty-five, or the last preceding section, as the case may be) will be deemed to be separated from the parent estate, and to be separately liable for the amount of land revenue specified in such notice, and calling upon him to enter into a separate engagement for the payment of such revenue.

124. The date specified in such notice shall not be more than three months after the proprietors have been put in possession of their respective separate estates as herein provided.

125. From the date specified in such notice, each separate estate shall be borne on the revenue roll and General Register of the Collector as a distinct estate separately liable for the amount of land revenue assessed upon it under this Act; and shall be so liable, whether the proprietor have executed an agreement for the payment of the amount of land revenue so assessed upon the said estate, or whether he shall have failed to execute such agreement.

126. The Collector may direct the construction of such boundary marks as he may think proper to distinguish the lands of each separate estate, and the cost of such boundary marks shall be deemed to be expenses of the partition.

Boundary marks erected under this Act shall be assigned to zemindars, or to zemindars jointly with tenure-holders, for preservation, as provided in the second clause of section 29 of "The Bengal Survey Act, 1875," and after they have been so assigned, the provisions of sections 19, 20, and 52 to 57 (both inclusive) of the said Act shall apply to such boundary marks.

PART X.

MISCELLANEOUS.

127. The Deputy Collector, with the consent of all the parties concerned, may refer to arbitration any point arising in the course of a partition; and the provisions of sections sixty-five and sixty-seven shall, as far as possible, be applicable to such references.

128. If any proprietor of an estate held in common tenancy and brought under partition in accordance with the provisions of this Act shall have given his share or a portion of it in putni or other tenure or lease, such tenure or lease shall hold good, as regards the lands finally allotted to the share of the lessor, and only as to such land.

Illustrations.

1.—A, the proprietor of a quarter share in a joint undivided estate held in common tenancy, gives to B a putni tenure of the whole of his interest in the estate, entitling B, as long as such estate is held in common

tenancy, to collect one-fourth of the rent payable by every ryot on the estate;

Partition of the said estate is made under this Act, and certain specific lands are assigned to A as his separate estate;

B will become patnidar of the entire separate estate which has been assigned to A, and will be entitled to collect the whole of the rents from the ryots on that estate.

II.—A, the proprietor of a quarter share in a joint undivided estate held in common tenancy, gives to B a patni tenure of one-half of his share in the estate, entitling B, as long as such estate is held in common tenancy, to collect one-eighth of the rent payable by every ryot on the estate;

Partition of the estate is made under the Act, and certain specific lands are assigned to A as his separate estate;

B will become patnidar of one-half of A's separate estate, and will hold his patni in common tenancy with the half of A's interest which A has not given in patni so that B will be entitled to collect one-half of the rent payable by every ryot on A's estate, and A will be entitled to collect the other half.

129. If two or more estates shall come into the possession of one proprietor or of the same body of proprietors, such proprietor or body of proprietors, after being recorded as proprietors, may apply to have such estates united, and to hold them as a single estate.

Two estates may be united.

130. Such application shall be made in writing to the Collector, and the Collector shall, not less than thirty days after the issue of a notification of such application (provided he see no objection), comply with the same, and cause the necessary entries to be made in the records of his office, and shall report the case to the Commissioner.

Application for such union how to be made, and how to be dealt with.

131. Whenever any separate estate created under this Act shall fall in arrear so as to require a sale of the land for the discharge of the arrear at any period within twelve years of the date of the confirmation of the partition, the Collector shall, if possible, ascertain the cause of the estate having fallen into arrear, and shall enquire whether such arrear has been caused by any fraudulent or erroneous allotment of the assessment or assignment of lands at the time of the partition, and shall make a report upon the case to the Commissioner for such action as the Commissioner may think proper.

Cause of sale of a separate estate for arrears to be ascertained.

132. If it shall be proved to the satisfaction of the Lieutenant-Governor at any time within twelve years from the date of the final confirmation of a partition by the Commissioner or by the Board, as the case may be, that through any fraud or error at the time of making the partition the assets of the lands assigned to any separate estate were not in proportion to the amount of land revenue for which such estate was made liable, or that the amount of land revenue assessed on any separate estate was not in proportion to the assets of the lands assigned to such estate, the Lieutenant-Governor may order a new allotment of the land revenue upon the separate estates in accordance with the principles prescribed in this Act, on an estimate of the assets of each such estate as they stood at the time of the partition, such estimate

In certain cases Lieutenant-Governor may order a new allotment of the land revenue.

being made on such evidence and information as may be procurable respecting the same.

133. Whenever the Lieutenant-Governor shall pass an order for the re-allotment of the land revenue on any separate estate under the last preceding section, the Lieutenant-Governor may direct that the proprietors whose estates are found to have been under-assessed shall, for each year during which they have held possession of the separate estates, be required to pay to the recorded proprietors of the estates which have been over-assessed, a sum equal to the annual amount in which the latter shall be found to have been over-assessed, and in default of payment the amount shall be leviable as provided in section one hundred and thirty-eight.

No order passed by the Lieutenant-Governor under this section shall be liable to be contested in any court.

134. Every notification required to be published in and by this Act shall, unless it is otherwise specially directed, be published by posting up copies of the same at the office of the Collector, and of the Deputy Collector who is making or has made the partition, at the māl cutcherry, or māl cutcherries (if any) of the proprietors of the parent estate, and at one or more of the principal villages on the said estate.

Publication of notifications under this Act.

135. Every notice in and by this Act required to be served on any person may be served—

Service of notice.

- (1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides, or by delivering the said notice to a general agent of the person to whom such notice is directed, or to any person who has been appointed in that behalf, or who has been appointed an agent of the person to whom the notice is directed for the general purposes of any partition under this Act; or
- (2) by sending a registered letter containing such notice directed to the said person at his usual place of abode or to the place where he may be known to be residing; or
- (3) by posting a copy of the notice at any māl cutcherry of the person to whom the notice is directed; or, if no such māl cutcherry be found, and if the notice cannot be served in any of the other modes mentioned in this section, on some conspicuous place on the estate to which such notice relates.

In all cases where two or more persons are joint applicants for the separation of an estate to be held by them jointly as a separate estate, service of notice under this section on any one such joint applicant shall be deemed to be good and sufficient service on each and all of such joint applicants.

136. Provided the directions of this Act be in substance and effect complied with, no proceedings under this Act shall be affected by reason of any mistake or by reason of any other informality, unless any person has suffered, or is in danger of suffering, material injury in consequence of such mistake or informality;

No proceedings under this Act to be affected by any mistake or misdescription.

and no proceedings under this Act shall be affected by reason of the omission to issue any notification required by this Act, or to serve any notice on any person whose name is not recorded on the Collector's registers as proprietor of the estate in respect of which the notice is required to be served.

137. If any proprietor or other person shall fail to comply, within the time fixed by a notice served on him as by this Act provided, with any requisition made upon him under this Act by the Collector or Deputy Collector, the Collector or Deputy Collector may impose upon him such daily fine as he may think fit, not exceeding fifty rupees;

Fine in case of non-compliance with notice or requisition.

and such fine shall be payable daily until the requisition is complied with,

and the Collector or Deputy Collector may proceed from time to time to levy the amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending;

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner, and no further levy in respect of such fine shall be made otherwise than by authority of the Commissioner.

138. Except as herein expressly otherwise provided, all fees, fines, costs, and other sums ordered to be paid by any person under this Act, shall be deemed to be demands under section I of Bengal Act VII of 1868 (an Act to make further provision for the recovery of arrears of land revenue and public demands recoverable as arrears of land revenue), and shall be leviable as such.

Fees, &c., to be deemed a demand under Bengal Act VII of 1868.

under this Act, shall be deemed to be demands under section I of Bengal Act VII of 1868 (an Act to make further provision for the recovery of arrears of land revenue and public demands recoverable as arrears of land revenue), and shall be leviable as such.

139. For the purpose of any enquiry under this Act, the Collector and Deputy-Collector shall, in addition to every power conferred specially by this Act, have power to summon and enforce the attendance of witnesses, to examine witnesses, and to compel the production of documents by the same means (as far as may be), and in the same manner as is provided in the case of a Court under the Code of Civil Procedure.

Power of Collector to enforce attendance of witnesses.

Act, have power to summon and enforce the attendance of witnesses, to examine witnesses, and to compel the production of documents by the same means (as far as may be), and in the same manner as is provided in the case of a Court under the Code of Civil Procedure.

140. All powers and functions which are assigned by this Act to a Deputy Collector may be exercised and discharged by the Collector; and whenever it is provided by this Act that any act done, or order made by a Deputy Collector shall require the sanction of the Collector, or shall be appealable to the Collector, if such act shall have been done or such order shall have been made by the Collector, it shall be deemed to have been sanctioned by the Collector, or to have been confirmed by the Collector in appeal, as the case may be.

Powers and functions assigned to Deputy Collector may be exercised by Collector.

it is provided by this Act that any act done, or order made by a Deputy Collector shall require the sanction of the Collector, or shall be appealable to the Collector, if such act shall have been done or such order shall have been made by the Collector, it shall be deemed to have been sanctioned by the Collector, or to have been confirmed by the Collector in appeal, as the case may be.

141. The Lieutenant-Governor may vest any Collector or Deputy Collector with all or any of the powers which, under the provisions of any law for the time being in force, might be exercised by them respectively, or might be conferred on them respectively, if they were making a settlement of the parent estate.

Government may vest Collector or Deputy Collector with certain powers.

which, under the provisions of any law for the time being in force, might be exercised by them respectively, or might be conferred on them respectively, if they were making a settlement of the parent estate.

Such powers may be conferred either generally in respect of all estates in the partition of which the Collector or Deputy Collector may, at any time and in any District be engaged, or specially in respect of any particular estate.

142. An appeal, if presented within one month from the date of the order appealed against, shall lie to the Collector against every order of a Deputy Collector

Appeal to the Collector. order appealed against, shall lie to the Collector against every order of a Deputy Collector

(a) directing, under section forty-one, by whom the costs of an enquiry held in consequence of an objection preferred shall be paid;

(b) accepting or adopting any papers under section sixty-three for the purposes of a partition;

(c) refusing, under section sixty-eight, to confirm a partition made by the parties or by arbitrators;

(d) fixing, under section eighty-nine, the limits of land and the rent to be paid for it in perpetuity;

(e) refusing, under section one hundred and four, to make a partition as applied for by the joint applicants;

(f) passed under section one hundred and ten in respect of lands held rent-free, or under section one hundred and eleven in respect of lands included in a tenure;

(g) imposing a fine under section one hundred and thirty-seven.

143. An appeal, if presented to the Commissioner, or to the Collector for transmission to the Commissioner, within one month from the date of the order appealed against, shall lie to the Commissioner against every order of the Collector (whether such order be passed by the Collector in the first instance, or in appeal from the order of a Deputy Collector)

Appeal to the Commissioner. for transmission to the Commissioner, within one month from the date of the order appealed against, shall lie to the Commissioner against every order of the Collector (whether such order be passed by the Collector in the first instance, or in appeal from the order of a Deputy Collector)

(a) having the effect of rejecting an application for the partition of an estate, or for the separation of a share, or of putting an end to proceedings for effecting a partition or separation after the application has been admitted;

(b) directing, under section thirty-one, that an application for partition or separation be admitted;

(c) accepting or adopting any papers under section sixty-three for the purposes of a partition;

(d) refusing, under section sixty-eight, to confirm a partition made by the parties or by arbitrators;

(e) setting aside, amending, or approving the general arrangement of the partition under section seventy-five;

(f) approving, with or without amendment, a partition made by a Deputy Collector, or directing such partition to be amended or a fresh partition to be made, or making a fresh partition under section eighty-one;

(g) fixing, under section eighty-nine, the limits of land and the rent to be paid for it in perpetuity;

(h) refusing, under section one hundred and two, to allow a partition to be made in accordance with an existing private division;

(i) passed under section one hundred and ten in respect of lands held rent-free, or under section one hundred and eleven in respect of lands included in a tenure;

(k) approving or disallowing, under section one hundred and fourteen, the allotment to the estate under partition of a portion of lands held in common tenancy between the proprietors of such estate and the proprietors of one or more other estates;

(l) passed under section one hundred and sixteen as to disputes or doubts regarding land;

(m) imposing or confirming the imposition of a fine under section one hundred and thirty-seven;

(n) imposing any fine amounting to more than fifty rupees, or directing the payment of any costs amounting to more than fifty rupees.

144. An appeal, if presented to the Board, or to the Commissioner for transmission to the Board, within six weeks from the date of the order appealed against, shall lie to the Board against every order of the Commissioner which confirms, modifies, or reverses any order of the Collector

(a) having the effect of rejecting an application for the partition of an estate, or for the separation of a share, or of putting an end to proceedings for effecting a partition or separation after the application has been admitted;

(b) directing, under section thirty-one, that an application for partition or separation be admitted;

(c) accepting or adopting any papers under section sixty-three for the purposes of a partition;

(d) approving or disallowing, under section one hundred and fourteen, the allotment to the estate under partition of a portion of lands held in common tenancy between the proprietors of such estate and the proprietors of one or more other estates;

and against every order of the Commissioner

(e) directing, under section forty, that any proprietor shall pay more than his proportionate share of the expenses of a partition, when the excess which he is ordered to pay exceeds five hundred rupees;

(f) directing, under section one hundred and thirteen, that any sum shall be paid by the proprietor of an estate other than the estate under partition, when such sum exceeds five hundred rupees;

(g) confirming, under section one hundred and eighteen or section one hundred and twenty, or amending or setting aside under section one hundred and twenty, a partition as made by the Collector;

(j) imposing, or confirming the imposition of any fine amounting to five hundred rupees, or ordering or confirming an order directing the payment of any costs amounting to more than five hundred rupees.

145. Except as provided in the three last preceding sections, no appeal shall lie as of right against any order passed under this Act by any officer; but the proceedings and orders of every Deputy Collector under this Act shall be subject to the supervision and control of the Collector; the proceedings and orders of every Deputy Collector and of the Collector to the supervision

and control of the Commissioner; and the proceedings and orders of all revenue officers, to the supervision and control of the Board;

and any order passed and anything done under this Act may be modified, amended, or reversed by the supervising and controlling authority at any time before possession of their respective separate estates has been given to the several proprietors as provided in section one hundred and twenty-three, but not after such possession has been given, except as provided in the next succeeding section.

146. Any proceedings of a revenue officer connected with giving possession to the proprietors of their respective separate estates as provided in section one hundred and twenty-three, may be set aside or amended as above provided by any supervising and controlling revenue authority, provided that such supervising and controlling authority shall within three months of the date on which such possession may have been given, make an order to the effect that such proceedings are under the consideration of such authority.

Such order shall be communicated to the Collector of the district, who shall cause the same to be published by notification in the manner prescribed by section one hundred and thirty-four.

147. The Commissioner and the Board may pass such orders as they shall think fit in respect of the payment of costs of any appeal which is made to them respectively under this Act.

148. If, in any case in which a Collector or other officer shall exercise jurisdiction under this Act, any person is guilty of the offence of giving or fabricating false evidence, or of forgery, as defined in the Indian Penal Code, or of abetting any of those offences, such Collector or other officer shall have the same powers in respect of such offence, and of the person charged with committing the same, as are vested by the Code of Criminal Procedure in a civil court, when any such offence is committed before or against such court, or when a document believed to be a forgery is given in evidence in any proceedings in such court.

149. No order of a revenue officer which is not liable to be set aside by civil suit.

(a) refusing to allow a partition on the grounds mentioned in section eleven;

(b) rejecting or directing to be amended an application under section twenty;

(c) made under the first clause of section thirty-two;

(d) made under Part IV, Part V, Part VI, Part VII, Part VIII (except as provided in the next succeeding section), or Part IX;

(e) imposing a fine;

(f) in respect of the payment of costs of any appeal under section one hundred and forty-seven,

shall be liable to be contested or set aside in a suit in any court, or in any manner other than as is expressly provided in this Act.

When suit may be brought to set aside order of revenue officer.

150. Notwithstanding anything contained in clause (d) of the last preceding section

any person claiming a greater interest in any lands which were held in common tenancy between two or more estates than has been assigned to him by the order of a revenue officer under section one hundred and twelve or section one hundred and fourteen ;

and any person who is aggrieved by any order of a revenue officer passed under section one hundred and sixteen ;

may bring a suit in a court of competent jurisdiction to modify or set aside such orders of the revenue officer.

151. In the execution of the duties vested in the Board by this Act, the Board shall be guided by such orders or instructions as they may from time to time receive from the Lieutenant-Governor.

152. The Board may, from time to time, make rules, not being inconsistent with this Act—

Board may lay down rules.

(a) to regulate the expenses of effecting partitions, or the amount of fees to be levied in respect of partitions, the allotment of the same among the proprietors, and the instalments in which, and the times at which the same shall be levied under Part IV ;

(b) to regulate the receipts, disbursements, and management of any "Estates' Partition Fund" formed under section forty-five ;

(c) to regulate the employment and remuneration of amins and other subordinate officers appointed under Part IV, to enable the officer making the partition to keep himself informed of the proceedings of such officers, and to exercise a proper control over them ;

(d) to regulate the form in which the partition papers shall be framed under section sixty-six and section seventy-seven ;

(e) and generally for the guidance of officers in conducting partitions under this Act.

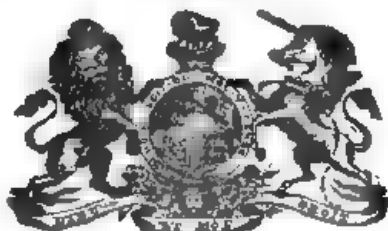
SCHEDULE.

See Section 2.

Number and year.	Subject or abbreviated Title.	Extent of repeal.
Regulation XI of 1811.	For extending period of reviewing jamā on certain lands.	So much as has not been repealed.
Regulation XIX of 1814.	Consolidating Regulations respecting Partition of Estates.	Ditto.
Act XX of 1855 ...	Quashing of <i>Darwazas</i> ...	Ditto.
Act XI of 1858 ...	Remuneration of persons effecting a partition.	Ditto.

FREDERICK CLARKE,

Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Department.



The Calcutta Gazette.

WEDNESDAY, OCTOBER 18, 1876.

PART III.

Act of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Second Publication.]

The following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 26th August 1876, and having been assented to by the Governor-General on the 18th September 1876, is hereby published for general information:—

ACT NO. VIII OF 1876.

An Act to make better provision for the Partition of Estates.

WHEREAS it is expedient to consolidate and amend the law relating to the partition of estates;
Preamble.
It is enacted as follows:—

PART I.

PRELIMINARY.

Short Title.

1. This Act may be called the "Estates" Partition Act, 1876."

It extends to the territories for the time being under the administration of the Lieutenant-Governor of Bengal;
Local extent.

And it shall come into force from the date on which it may be published in the Calcutta Gazette with the assent of the Governor-General, which date is hereinafter referred to as the commencement of this Act.
Commencement.

2. On the commencement of this Act, the Regulations and Acts specified in the schedule hereto annexed, to the extent mentioned in the
Laws repealed.

third column thereof, shall cease to have effect in the territories subject to the Lieutenant-Governor of Bengal, save so far as they repeal or modify any other Regulations or Acts, and save so far as regards the partition of any estate which shall be pending at the time of the said commencement.

The partition of any estate which shall be pending at the time of the commencement of this Act shall (except as provided in the next succeeding section) proceed and be completed in the same manner as if this Act had not been passed.

3. The provisions of this Act, so far as they relate to the continuation of a partition from the point which it has reached, or to the staying of the partition of an estate, or to striking a partition case off the file, may be applied, at the discretion of the Collector, in all cases of partition of estates pending at the time of the commencement of this Act, provided that before applying such provisions to the continuation of a partition the Collector give due notice in each case to the parties concerned that such provisions will be applied.
Certain provisions of Act applicable to partition cases pending at the time of its commencement.

4. In this Act—unless there be something repugnant in the subject or context—
Interpretation clause.

(i) "Amin" means a person who is appointed by the Collector or Deputy Collector to make any measurement, survey, or local inquiry, or to prepare the papers showing the result of any measurement, survey, or local inquiry.
"Amin."

(ii) "Applicant" means any person who has applied to the Collector under the provisions of this Act, for the separation from the parent estate of lands representing his interest in such parent estate, and for the assignment to him of such lands as a separate estate liable for a demand of land revenue distinct from that for which the parent estate is liable.

(iii) "Assets of land" include the rental of the land with respect to which the expression is used, and all profits derived by the proprietors out of such land from rights of pasturage, forest-rights, fisheries, and all other legal sources.

(iv) "Assets of an estate" means the assets of all land included in an estate.

(v) "Board" means the Board of Revenue for the provinces for the time being subject to the Lieutenant-Governor of Bengal.

(vi) "Chapter" means a chapter of this Act.

(vii) "Deputy Collector" includes any Assistant Collector, Deputy Collector, or Sub-Deputy Collector whom the Collector may appoint (as he is hereby empowered to do) to effect a partition and allotment of assessment under this Act, or to conduct any of the proceedings connected with such partition and allotment.

(viii) "Estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land revenue.

(ix) "Joint undivided estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land revenue, and of which two or more persons are proprietors.

(x) "Land" does not include the houses and buildings standing thereon.

(xi) "Lieutenant-Governor" means the Lieutenant-Governor of Bengal for the time being or the person acting in that capacity.

(xii) "Parent estate" means any estate for the partition of which proceedings may be in progress under this Act, or of which the partition may have been effected under this Act.

(xiii) "Proprietor" includes every person who is in possession of any estate under partition, or of any portion of such estate, or of any interest in such estate or in any part of such estate, as owner thereof, whether such person be or be not a recorded proprietor of the estate.

(xiv) "Recorded proprietor" means a person whose name is registered on the Collector's General Register of revenue-paying lands as proprietor of an estate or of any share or interest therein.

(xv) "Section" means a section of this Act.

(xvi) "Separate estate" means any distinct estate which may be formed by the partition of a parent estate under this Act, or for the forma-

tion of which proceedings may be in progress under this Act.

(xvii) "The Collector" means the Collector of the district on the revenue-roll of which the estate under partition, or which it is proposed to bring under partition, is borne, and includes any officer whom the Board may generally vest (as it is hereby empowered to do) with the powers of a Collector under this Act, and to whom the Collector of the district has, with the sanction of the Commissioner, delegated (as he is hereby empowered to do) any of his duties and functions in respect of the partition of any estate; and any officer whom the Board may specially vest (as it is hereby empowered to do) with the powers of a Collector for the purposes of any partition under this Act.

(xviii) "The Commissioner" means the Commissioner of Revenue to whom the Collector engaged in making the partition is subordinate.

5. All partitions of estates which shall be ordered to be made after the commencement of this Act, shall be made under the provisions of this Act, and no such partition made otherwise than under this Act shall relieve any lands from liability to Government for the total demand of land revenue assessed upon the estate of which they form a part.

6. The amount of land revenue assessed on each separate estate shall bear the same proportion to the whole amount of land revenue for which the parent estate was liable, as the assets of such separate estate bear to the whole assets of the parent estate.

7. Except as hereinafter otherwise expressly provided, the average of the amount of rent which was payable for any land by the cultivating ryots during the three years immediately preceding the year in which proceedings are taken under this Act for the partition of the estate shall, for the purposes of this Act, be deemed to be the rental of such land;

and if any land is not let, but is held and occupied directly by the proprietors or any of them, the annual rent for which such land might reasonably be expected to let shall be deemed to be the rental of such land.

Exception 1.—If the rent payable by the cultivating ryots on account of any land shall have been determined by any Court of competent jurisdiction, or shall have been altered with the consent of the said ryots at any time during the said three years, the amount so determined, or the amount to which the rent may have been so altered, may, if the Collector think proper, be deemed to be the rental of the land.

Exception 2.—If any land is held on a permanent tenure which was created by all the proprietors of the estate, and which by any law for the time being in force is protected against the purchaser at a sale for arrears of revenue, the rent payable by the holder of such tenure shall be deemed to be the rental of such land.

Exception 3.—If any land is held on a tenure which, although not protected as aforesaid, is admitted by all the recorded proprietors of the estate to be a permanent tenure created by all the

proprietors of the estate, subject only to the payment of an amount of rent fixed in perpetuity, and of such nature that the rent thereof is not liable to be enhanced under any circumstances by the proprietors of the said estate, or any person deriving his title from such proprietors, the rent payable by the holder of such tenure (whether he be known as talukdar, patnidar, mokarraridar, or by any other designation) shall be deemed to be the rental of such land.

Exception 4.—If any land be unoccupied, such amount as the Collector may determine, with reference to all the circumstances of the case, shall be deemed to be the rental of such land.

PART II.

OF THE RIGHT TO CLAIM PARTITION.

8. Except as hereinafter otherwise provided, every recorded proprietor of a joint undivided estate, who is in actual possession of the interest in respect of which he is so recorded, is entitled to claim a partition of the said estate, and the separation therefrom and assignment to him as a separate estate of lands representing the interest of which he is in such possession, provided that, and as far only as, such partition, separation, and assignment can be made in accordance with the provisions of this Act.

Any two or more such recorded proprietors may claim that lands representing the interests of all such claimants may be formed into one separate estate to be held by them as a joint undivided estate; and every provision of this Act which applies to an applicant for partition shall apply to any two or more persons making such joint claim.

9. (a) If the interest of any recorded proprietor who is entitled to claim partition as aforesaid is an undivided share in an estate held in common tenancy, such person shall be entitled to have assigned to him as his separate estate lands of which the assets shall bear the same proportion to the assets of the parent estate as his undivided share in the parent estate bears to the entire parent estate.

(b) If the interest of such recorded proprietor is the proprietary right of certain specific mouzahas or lands forming part of the parent estate, and held by him in severalty, he shall be entitled to have assigned to him as his separate estate the said mouzahas or lands.

(c) If the interest of such recorded proprietor consists of an undivided share held in common tenancy in certain specific mouzahas or tracts forming part of the parent estate, but not extending over the whole area of the parent estate, he shall be entitled to have assigned to him as his separate estate lands situated within such specific mouzahas or tracts, of which the assets shall bear the same proportion to the assets of such specific mouzahas or tracts as his undivided share in such specific mouzahas or tracts bears to the entire mouzahas or tracts.

Provided that if the interest of such recorded proprietor consists of such undivided share in more than one mouzah or tract, he shall not

be entitled to have lands assigned to him in every such mouzah or tract, but the Collector may assign to him as his separate estate lands situated in any one or more of the said mouzahas or tracts, provided that the assets of such lands are in proportion to the aggregate of the interests which he holds in all such mouzahas or tracts.

(d) If such recorded proprietor holds in the parent estate more than one of the kinds of interest specified in this section, lands shall be assigned to him as far as possible in accordance with the principles above laid down.

10. Notwithstanding anything hereinbefore contained, no person having a proprietary interest in an estate for the term of his life only shall be deemed to be a person entitled to claim partition under this Act.

11. No application for the partition of a permanently settled estate shall be admitted, and if the application shall have been admitted, no partition shall be carried out in accordance with such application, if the separate estate of any of the proprietors would be liable for an annual amount of land revenue not exceeding one rupee, until the proprietor of such separate estate agrees to redeem the amount of revenue for which his estate would be liable, by payment of such sum as the Lieutenant-Governor may fix with reference to the circumstances of such estate.

12. Whenever a division of the lands of any estate has been made by private arrangement of the proprietors thereof, and in accordance with such arrangement each proprietor is in possession of separate lands held in severalty as representing his interest in the estate, no such estate shall be brought under partition and no partition of such estate shall be made under this Act otherwise than on a joint petition presented under section one hundred and one or section one hundred and five by all the proprietors thereof, unless such partition shall have been ordered to be made by a Civil Court.

13. The Collector may refuse to admit an application for the formation of lands held in severalty into a separate estate, if in consequence of such lands being intermingled with those held by other proprietors the result of the partition would be to form out of a compact estate one or more estates consisting of scattered parcels of land, in such a way as, in the opinion of the Collector, to endanger the safety of the land revenue, and the Collector may at any time refuse to proceed with a partition which would have such a result.

But a partition may be allowed in such a case if the recorded proprietors shall agree to such a distribution of land as shall make the estates formed by the partition reasonably compact.

Nothing in this section shall be understood to prohibit the partition into separate estates of a parent estate which before such partition is not compact and consists only of scattered parcels of land.

14. No proprietor who has alienated any portion of his interest in an estate or in any specific lands of an estate, by private contract, with the condition that the transferee shall be liable in respect of the interest acquired by him to pay a specified amount or a specified share of the land revenue for which the estate is liable (such amount or share being other than the proportionate amount or the proportionate share for which such transferred interest if formed into a separate estate would be liable under the provisions of section six);

and no proprietor who has derived his title from any proprietor who has made any alienation as aforesaid.

shall be entitled to claim a separation under this Act of the interest which he continues to hold in the estate;

and no such transferee as aforesaid, and no person deriving his title from such transferee, shall be entitled to claim a separation of the interest which has been so acquired:

Provided that a separation of such interests may be made, if the parties concerned agree to waive the conditions of the contract as regards the proportion of revenue for which the transferor and transferee or their representatives respectively are liable, and to hold the estates which may be allotted to them respectively by the partition, subject to the payment of such amount of land revenue as may be assessed upon them respectively by the revenue authorities under his Act.

15. Notwithstanding that a parent estate may have been declared to be under partition as provided in section thirty-one, any arrears of revenue accruing due on such estate before the date specified in the notice issued under section one hundred and twenty-three may be realized by sale of the parent estate as if such estate had not been declared to be under partition; and if such sale takes place the partition proceedings shall cease from the date thereof.

16. Nothing contained in the last preceding section shall be deemed to affect the provisions of sections 10, 11, 12, 13, or 14 of Act XI of 1859 (an Act to improve the law relating to sales of lands for arrears of revenue), or any provisions of any similar law for the time being in force in respect to the opening of separate accounts for different shares in an estate, and the protection afforded to such shares thereby:

Provided that if any share in any estate is sold for its own arrears of revenue while such estate is under partition in accordance with the provisions of this Act, such share shall be sold subject to the partition proceedings, which shall proceed as if no such sale had taken place; and the purchaser of the share sold may, from the date of such sale, exercise all the rights which the proprietor whose share he has purchased might have exercised, and shall be subject to all the liabilities to which such proprietor would have been subject, in respect of the partition proceedings.

PART III.

OF THE APPLICATION FOR PARTITION; THE ADMISSION OF AN ESTATE TO PARTITION; AND THE DISCONTINUANCE OF THE PARTITION PROCEEDINGS AFTER SUCH ADMISSION.

17. All applications for partition shall be made to the Collector of the district on the revenue-roll of which the estate is borne, and shall be made in person or by duly authorized agent, on paper bearing such stamp as may be required by any law for the time being in force.

18. The application shall be signed by the applicant, and shall supply the following information in regard to the parent estate, so far as the particulars are known to the applicant or can be ascertained by him:—

- (a) name of the estate;
- (b) number under which the estate is borne on the revenue-roll, and the revenue demand for which it is liable;
- (c) number under which the estate is borne on the Collector's General Register of revenue-paying lands;
- (d) name and address of every proprietor, whether recorded or unrecorded;
- (e) the character and extent of the interest of which each proprietor is in possession;
- (f) a specification of any lands held by all or any of the proprietors of the parent estate in common with all or any of the proprietors of other estates, and of the rights of such proprietors respectively in such lands.

19. Subject to the provisions of section sixty-one, every application shall, if possible, be accompanied by a copy of the rent-roll of the estate, by a statement of the rents collected from such estate on behalf of the applicant during each of the three years immediately preceding such application, and by copies of any measurement papers of the estate which the applicant may have in his possession. The said rent-roll, statement, and measurement papers shall be attested by the patwaris of the villages, if any, and every such application, rent-roll, and statement shall be presented, subscribed, and verified as provided in section fifty-two.

If the applicant is unable to produce a rent-roll or statement as above required, he shall state the reason of such inability, and the name and address of the person who has in his possession the information necessary for the preparation of such rent-roll and statement, and the Collector may, if he shall think fit, require such person to produce such rent-roll and statement.

20. If the application does not fulfil the requirements of the three last preceding sections, the Collector may reject such application or may order it to be amended.

21. If, in the opinion of the Collector, the application fulfils the said requirements and there appears to be no objection to making the partition, the Collector shall publish a

notification of the application in the manner prescribed in section one hundred and thirty-four and shall also cause copies thereof to be posted up at the Court of the Judge of the district, at the court of every Munsif and Sub-divisional Officer within whose jurisdiction, and at every Police Station within the jurisdiction of which any lands appertaining to the estate are known to be situated, and shall invite any person claiming any proprietary right in the estate, who may object to the partition, to state his objection either in person or by duly authorized agent, on a day to be specified in the notification, not being less than thirty or more than sixty days from the date of the publication of the notification on the estate.

22. Notice of the application shall also be served in the manner prescribed by section one hundred and thirty-five on such of the recorded proprietors of the estate as shall not have joined in the application, and on any other proprietor who may have been named in the application.

23. If any objection be made to the partition by any person claiming a proprietary right as aforesaid on or before the day specified in the notification published under section twenty-one, or at any subsequent time if it shall seem fit to the Collector to admit such objection, and the Collector, on consideration of such objection, shall be of opinion that there is good and sufficient reason for rejecting the application, he may reject the same, and in that case shall record the grounds of such rejection.

24. If the objection raises any question of the extent of interest, or of right or title as between any applicant and any other person claiming to be a proprietor of the parent estate, and if it shall appear to the Collector that such question has not been already determined by a Court of competent jurisdiction, the Collector may hold such inquiry as he may deem necessary into the objection, and, if he be satisfied that the applicant is in possession of the extent of the interest for the separation of which he has applied, may, instead of rejecting the application as provided in the last preceding section,

(a) direct that the partition proceedings shall proceed for the purpose of forming and assigning to the applicant a separate estate in accordance with the extent of interest claimed by him in the parent estate; or

(b) direct that such proceedings be postponed for four months.

25. At the expiration of the said four months, the Collector shall resume the proceedings, unless the person who has made the objection, or some other person, shall have obtained an order from a Civil Court directing that such proceedings be stayed, or shall be able to show that a suit has been instituted before such Court to try some question, of such nature that the Collector shall think fit to stay the proceedings until the question shall have been finally decided, or until the proceedings in such Court in respect thereof shall have terminated.

26. No suit instituted in a Civil Court by any person claiming any right or title in the parent estate, after the lapse of four months from the issue of an order of the Collector under clauses (a) and (b) of section twenty-four, or after the lapse of four months from the issue of an order of the Collector under section thirty-one declaring the estate to be under partition, shall avail to stay or affect the progress of any proceedings which shall have been taken under this Act for the partition of an estate; and all rights which may be conferred on any person by the final decree in such suit shall be subject to such proceedings in the manner herein-after provided.

27. Every decree passed in such suit after the parent estate shall have been declared to be under partition as provided in section thirty-one, but before the date specified in the notice under section one hundred and twenty-three, shall be made in recognition of the proceedings then in progress under this Act for the partition of such parent estate, and shall be framed in such manner that the provisions of such decree may be applied to, and may be carried out in reference to the separate estates which the Collector in his proceeding under section thirty-one shall have ordered to be formed out of the parent estate;

and if the effect of any such decree be to declare any person or body of persons entitled to any extent of interest in such parent estate in excess of the extent of interest which the Collector in the said proceeding has declared to be held by such person or body of persons, such decree shall specify, separately in respect of every proprietor or body of proprietors of whose interests the Collector has separately specified the extent in the said proceeding, the proportion of such excess which such person or body of persons is entitled to recover from every such proprietor or body of proprietors;

and every person or body of persons so declared entitled to recover any extent of interest from any such proprietor or body of proprietors shall, for the purposes of the partition proceedings, be deemed to have the same rights, and to be subject to the same liabilities, as a person who has acquired such extent of interest from such proprietor or body of proprietors by private purchase after the estate was brought under partition under section thirty-one, and on the date on which the decree was passed;

and such person or body of persons may apply, as in this Act provided, for the separation and assignment to him, or them, of the lands representing the extent of interest so acquired;

and such application shall be dealt with as provided in section thirty-two.

28. Every decree passed after the date specified in the notice under section one hundred and twenty-three, in a suit which was instituted as mentioned in section twenty-six, shall be made in recognition of the partition proceedings, and shall be framed in such manner as to give effect to such division of the parent estate into separate estates as shall have been made by the Collector, and not to disturb such division; and if the

effect of any such decree shall be to declare any person or body of persons to have been entitled to any extent of interest in the parent estate in excess of the extent of interest which is represented by the separate estate assigned to such person or body of persons by the Collector in the partition proceedings, such decree shall specify, separately in respect of the proprietor or joint proprietors of every separate estate formed by the partition, the proportion of such excess of interest which such person or body of persons is entitled to recover from such proprietor or joint proprietors; and every person or body of persons so declared entitled to recover any extent of interest from the proprietor or joint proprietors of a separate estate shall be entitled to recover such extent of interest out of the separate estate which has been assigned to such proprietor or joint proprietors, and out of such separate estate only;

and every such decree as aforesaid shall be executed by placing the person or persons so declared entitled to recover, in the position of a recorded joint proprietor or recorded joint proprietors of such separate estate, holding the same as a joint undivided estate in common tenancy with the proprietor or joint proprietors to whom such separate estate was assigned by the Collector in the partition proceedings, the extent of the interest of the joint proprietors respectively in such estate being such as is declared in the aforesaid decree.

29. Subject to the provisions of section eleven, a Civil Court may at any time direct the Collector to assign to any person lands representing a specified interest in any estate or in any specified village or tract of land in an estate, to be held by such person as a separate estate, or to divide off from any estate any specified villages or lands, and to assign them to any person to be held as a separate estate, provided that an application for such partition and separation shall be presented by such person, as required by sections seventeen, eighteen, and nineteen; but no Civil Court shall in any case specify the amount of revenue for which any separate estate which it may direct to be formed under the provisions of this section shall be liable.

30. The Collector shall assess the land revenue on every such separate estate in accordance with the provisions of this Act, and no Civil Court shall direct the Collector to carry out at partition otherwise than in accordance with the provisions of this Act.

31. If no objection be made within the time allowed under section twenty-one to an application for partition, or when all objections have been disposed of, and if the Collector has no reason to believe that any obstacle exists to his making the partition as applied for, he shall direct that the application be admitted, and record a proceeding declaring the estate to be under partition, for the purpose of forming and assigning to the applicant a separate estate.

In such proceeding the Collector shall declare the extent of interest in the parent estate which

he finds to be held by the applicant, or joint applicants;

and, if more than one separate application for separation shall have been made and admitted, the extent of interest which he finds to be held by every separate applicant, or body of joint applicants, respectively;

and also the extent of interest which remains to any recorded proprietor, or to any number of recorded proprietors who are not applicants;

and shall order that lands proportionate to the interest so declared to be held by each applicant, or body of joint applicants, respectively, shall be formed into a separate estate, to be assigned to such applicant, or body of joint applicants;

and that lands proportionate to the interest so declared to remain to the recorded proprietor, or the number of recorded proprietors who are not applicants, shall be left forming a separate estate.

32. If at any time after the Collector has made an order for partition under the last preceding section, any recorded proprietor in the estate, other than the original applicant, shall apply for the separation of his share, the Collector may either order that the proceedings for effecting such separation shall be carried on simultaneously with those for separating the share of the original applicant, or if he consider that such a course would entail delay in the completion of the original proceedings, he may order that no action shall be taken on such subsequent application until after the proceedings for the separation of the original applicant's share shall have been completed.

In the latter case all or any of the rent-rolls, measurements, and other papers which were used in the separation of the original applicant's share, may be used, as far as they are applicable, in the partition for which subsequent application has been made.

33. The Collector may refer any application for partition to a Deputy Collector for the purpose of making any enquiries and doing anything required by this Part; provided that every order—

- (a) rejecting an application under section twenty-three;
- (b) directing, under section twenty-four, that the partition shall proceed, or shall be postponed;
- (c) directing, under section thirty-one, that an application for partition be admitted, and declaring an estate to be under partition;
- (d) made under the first clause of the last preceding section;
- (e) appointing a Deputy Collector under the next succeeding section to carry out the partition; shall be passed by the Collector and not by any Deputy Collector.

34. As soon as the Collector has declared an estate to be under partition as provided in section thirty-one, he may appoint a Deputy Collector to carry out the partition and all or any of the proceedings necessary thereto.

35. If at any time after an order shall have

Partition may be stayed if parties so desire. Recovery of costs.

been passed for making a partition all the recorded proprietors of the estate shall present a petition to the effect that they do not wish the partition to proceed, the Collector may, on the report of the Deputy Collector or otherwise, strike the partition case off the file, on payment by the proprietors of all costs and expenses incurred in and about such partition; and any such costs and expenses which shall not already have been levied as provided in section thirty-nine or section forty, shall be levied in proportion to the shares of the respective proprietors.

36. If at any time after an order shall have

Partition may be stayed and proceedings quashed by Commissioner.

been passed for making a partition, it shall appear from information which was not before the Collector at the time the partition was ordered, or otherwise, that any sufficient reason exists, why the partition should not be proceeded with, the Commissioner may, on the report of the Collector or otherwise, after issuing a notice calling on the persons interested to show cause why the partition should not be struck off the file, and after considering any objections which may be made, order the partition case to be struck off the file; and in such case any costs and expenses of the partition which shall not already have been levied as provided in section thirty-nine or section forty shall be levied in proportion to the shares of the respective proprietors.

PART IV.

OF ESTABLISHMENTS FOR EFFECTING PARTITIONS AND OF THE COST THEREOF.

37. For the purposes of this Act, the Deputy

Deputy Collector may appoint officers for making measurement of lands, &c.

Collector may, with the approval of the Collector, and subject to any rules made in that behalf by the Board, appoint such establishments as may be required for making the measurement and survey of lands, for ascertaining and recording the rates of rent, for making any other local enquiries, for the preparation of the papers and for other matters in each case; and the Collector may appoint such peshkars or other superior officers as may be required to test the work of the amins, and for the performance of similar duties; provided that the scale of remuneration of such officers, and the time for which they shall be employed, shall be sanctioned by the Commissioner.

38. In any district or division in which

Special establishments may be appointed.

partitions may be so numerous or so extensive as to render necessary the appointment of special establishments in the office of the Collector or of the Commissioner, the Collector and the Commissioner may, with the sanction of the Board, appoint such establishments.

39. As soon as possible after an estate has

Cost of partition to be paid from proprietors in accordance with rules laid down by the Board.

been declared to be under partition as provided in section thirty-one, the cost of making the partition shall be estimated, and the amount shall be levied

from the proprietors in such instalments and at such times during the progress of the partition as may be fixed in accordance with any rules which the Board may make in that behalf.

If the amount first estimated is found insufficient, supplementary estimates may be made from time to time, and the required amount may be levied as above provided.

40. The cost shall be apportioned on the

Apportionment of costs.

proprietors of each share in proportion to their shares; but whenever it shall appear to the Commissioner that the partition proceedings have been unnecessarily delayed, and the cost of the partition enhanced by obstacles vexatiously put in the way of their completion by one or more of the proprietors, or by want of due diligence on the part of one or more of the proprietors in carrying out any requisitions made upon him or them, the Commissioner may direct that such portion of the cost as he may think proper in excess of the amount proportionate to his or their share shall be levied from such proprietor or proprietors.

41. Whenever any local enquiry may be

Deputy Collector may declare cost of local enquiry.

held by the Deputy Collector or any other officer, in consequence of an objection raised by any person to any record of measurements, rent-rolls, or other information which has been laid before the Deputy Collector, the Deputy Collector may declare the cost which has been incurred by such enquiry, and may direct that the entire cost so declared shall be paid by the person making the objection or by any one of the proprietors, or that such cost shall be paid in such proportions as he shall think fit, by the said person and the proprietors or any of them, or that such cost be deemed a part of the general cost of making a partition as prescribed in section thirty-nine.

42. Upon the completion of the partition,

After completion of partition Collector shall declare total cost thereof.

the Collector shall make an order declaring the total cost thereof. The account shall then be adjusted, either by returning to the proprietors any sums which they may have paid in excess of the total cost, or by levying from them in the manner provided in section one hundred and thirty-eight, if necessary, any sums remaining due.

43. Whenever it shall appear to the Lieu-

Salary of Deputy Collectors when to be deemed part of cost of partition.

tenant-Governor that in any district the work required to be done by Deputy Collectors in connection with partitions under this Act is so great that such work would, if concentrated in the hands of one or more Deputy Collectors, fully occupy the time of such one or more Deputy Collectors, the Lieutenant-Governor may make an order directing that the salary of such one or more Deputy Collectors, as the case may be, shall be recovered from the proprietors of estates under partition in such district as part of the cost of such partitions, and thereupon such charge as the Collector may think fit to make in respect of such salary shall, in addition to the items mentioned in the last preceding section, be deemed to be a portion of the costs of every partition.

For the purposes of this section the salary of every Deputy Collector shall be deemed to be the amount of salary which is drawn by a Deputy Collector of the lowest grade.

44. For the purposes of sections thirty-nine, forty, and forty-two, the costs of any partition shall be deemed to be

What are costs leviable from proprietors.

(a) the cost of any establishments entertained for the partition under section thirty-seven, or such amount as the Collector may think proper in respect of the services of any such establishments which are entertained for the purposes of making partitions in the district;

(b) all contingent expenses incurred in and about the partition, and

(c) such portion of the cost of any establishment entertained under section thirty-eight as the Collector may order.

45. Notwithstanding anything contained in the eight last preceding sections, the Lieutenant-Governor may direct that in any district a fund to be called the "Estates' Partition Fund" shall be formed, into which all sums levied from the proprietors of estates in respect of partitions of their estates shall be paid.

Whenever such a fund shall have been established in any district, all expenses of making partitions of estates in such district shall, except as hereinafter otherwise provided, be defrayed from such fund.

46. Whenever the Lieutenant-Governor shall have ordered an "Estates' Partition Fund" to be formed in any district, the charges leviable from the proprietors of any estate under partition may be estimated and levied according to the estimate in each case as provided in sections thirty-nine and forty, subject to final adjustment, as provided in section forty-two; or they may be levied according to a general scale of fees to be fixed by the Board.

47. Such scale of fees shall be fixed as nearly as may be, so that the receipts and expenditure of the said fund shall balance one another, and shall be revised from time to time by the Board for that purpose.

Scale of fees.

Such fees shall be levied from the proprietors in such instalments and at such times during the progress of the partition as may be fixed in accordance with any rules which the Board may make in that behalf, and the provisions of section forty shall be applicable to such fees.

48. An abstract of the Estates' Partition Fund of each district made up to the end of each year shall be published in the *Calcutta Gazette*, and by being posted up at the office of the Collector of the district.

49. For the purposes of sections forty-five, forty-six, and forty-seven the expenses of making partitions in any district shall be deemed to be

(a) the cost of all establishments entertained in the district under section thirty-seven;

(b) all contingent expenses incurred in all partitions in the district;

What costs of partition chargeable to Estates' Partition Fund.

(c) the cost of any special establishment appointed in the office of the Collector under section thirty-eight;

(d) such portion as the Commissioner may direct of the cost of any special establishment appointed in his office under section thirty-eight;

(e) the salary of any one or more Deputy Collectors which the Lieutenant-Governor may have ordered under section forty-three to be recovered from the proprietors of estates under partition.

50. Whenever any Civil Court shall make a decree awarding or declaring any proprietary right in an estate, and shall require the Collector to make a partition of the estate, such Court may at the same time direct,

that the party or parties who may have withheld the right so decreed shall defray the whole of the expense which may be incurred in and about the partition, or the whole of the fees payable in respect of the partition under section forty-six, or that the said expenses or fees shall be defrayed by all or any of the parties to the suit in which the decree was made in such proportions as the Court may, from a consideration of the particular circumstances of the case, deem equitable;

Copies of all orders which the Court may pass under this section shall be transmitted to the Collector for his guidance, together with the precept which the Court may issue to him, requiring him to divide the estate; and the Collector shall levy the said expenses and fees from the parties in the proportion ordered by such Court in the same manner and by the same means as if the levy of such expenses and fees had been ordered by the Collector.

PART V.

OF THE PARTITION PROCEEDINGS UP TO THE ADOPTION OF A RENT-ROLL AND MEASUREMENT PAPERS.

51. As soon as the Collector shall have made an order under section thirty-one declaring an estate to be under partition, the Deputy Collector shall cause a notification to be published in the manner prescribed by section one hundred and thirty-four, and shall also cause copies thereof to be posted up at the Court of the Judge of the district in which any lands appertaining to the parent estate are known to be situated, and at the Court of every Munsif and of every Sub-divisional officer within the jurisdiction of whom, and at every Police station within the jurisdiction of which, any such lands are known to be situated, intimating his intention to proceed with the partition, and requiring all the proprietors of the estate to produce before a certain date, being not less than forty days from the date of such notification, either jointly or separately, copies of their rent-rolls and statements of the rents collected during each of the three years next preceding, and also copies of any measurement papers of the estate which may be in their possession.

A notice to the same effect shall also be served as provided in section one hundred and thirty-five on each proprietor of the parent estate.

An order as estate declared to be under partition, Deputy Collector shall cause notification to be published.

The Deputy Collector may, on sufficient grounds for so doing being shown to his satisfaction, from time to time extend the period for producing any such return.

52. Every rent-roll, statement of rents collected, and measurement paper furnished to the Collector under this Act shall be presented by the person who is required to produce the same or by a duly authorized agent of such person who has a personal knowledge of the facts stated therein, and shall be subscribed and verified at the foot by such person or such agent in the manner following, or to the like effect:—

"I, A.B., do declare that this rent-roll (statement, or measurement paper) is correct to the best of my knowledge and belief."

If the rent-roll, statement or measurement paper shall contain any entry which the person making the verification shall know or believe to be false, or shall not believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

53. If any proprietor who is required to produce any rent-roll or statement by notice as aforesaid is unable to produce such rent-roll or statement, he shall state to the Deputy Collector the cause thereof and the name and address of the person who has in his possession the information necessary for the preparation of such rent-roll and statement, and the Deputy Collector may, if he shall think fit, require such person to produce such rent-roll and statement.

54. The Deputy Collector may, if necessary, make, or may cause to be made, a measurement of all or any of the lands comprised in the estate, and may prepare or cause to be prepared a rent-roll, and may test or cause to be tested on the spot any rent-roll which has been produced as aforesaid, and may make or may cause to be made any local enquiry which he may consider necessary.

55. Before proceeding or deputed the amin to the spot, the Deputy Collector shall publish a notification in the manner prescribed by section one hundred and thirty-four requiring the several proprietors of the estate, their managers, and any other persons employed in the management of the land, or otherwise interested therein, to attend in person or by agent upon him or upon the amin who is deputed to make the measurement or enquiry, for the purpose of pointing out boundaries and of affording such assistance and information as may be required for the purposes of this Act.

56. The Deputy Collector, and any amin or other person who is specially authorized in that behalf by the Collector, may, by a notice served as provided in section one hundred and thirty-five, require any proprietor or other person whose attendance may be required, to attend before the Deputy Collector or amin who is making such measurement or enquiry, within a specified time at any place for any of the purposes aforesaid.

57. If any objection be made to a measurement, map, or rent-roll prepared by the amin, or if for any other reason it seems desirable, the Deputy Collector shall, as soon as possible after completion of the amin's work, himself test, or shall cause to be tested on the spot such measurement, map, and rent-roll, and may accept, amend, or reject the same, or any of them. If the Deputy Collector shall deem it necessary, he may cause the work or any portion thereof to be done again.

58. The Deputy Collector may examine any person on solemn affirmation, in regard to the papers produced before him, whether by the proprietors, by the amin, or otherwise, and shall allow the parties concerned to put any necessary questions to such person.

The Deputy Collector shall also allow any proprietor or other person interested to examine the papers so produced, and to take a copy of the same, and after such examination shall hear any objections which any of the persons interested may make in respect of such papers, and shall decide whether any, and (if any), which of the papers as they stand, or with such modifications as he may think necessary, shall be accepted as correct for the purposes of the partition.

59. If any proprietor who has been required to produce a rent-roll or statement under section fifty-one, fails to produce the same after the imposition on him of a fine under section one hundred and thirty-seven for thirty days, or fails to state to the Deputy Collector the name and address of any person under section fifty-three, the Deputy Collector may declare that the said proprietor shall, for the purposes of the partition, be bound by such rent-roll as the Deputy Collector may adopt as the basis of the partition as hereinafter provided, and after such declaration any officer exercising authority under this Act may refuse to entertain any objection which such proprietor may make to such rent-roll.

60. If any person who has been required to produce a rent-roll or statement under section fifty-three shall fail to produce the same after the imposition on him of a fine under section one hundred and thirty-seven for thirty days, the Deputy Collector may declare that the proprietor who may have stated the name of such person under section fifty-three shall, for the purposes of the partition, be bound by the rent-roll which the Deputy Collector may adopt for the basis of the partition as hereinafter provided, and after such declaration any officer exercising authority under this Act may refuse to entertain any objection which such proprietor may make to such rent-roll.

61. Notwithstanding anything contained in this Act, if it shall appear to the Deputy Collector that any measurements, maps, rent-rolls, or other papers relating to the estate which have been prepared otherwise than for the purposes of the partition, or otherwise than for the purposes of this Act, afford

information sufficiently trustworthy to enable him to effect the partition, the Deputy Collector may adopt such information and such papers either wholly or in part for the purposes of the partition, and may dispense with any rent-rolls, maps, or other papers for which he is authorized to call, or which an applicant is required to produce under this Act.

62. No proprietor or other person, who shall have failed to attend in person or by agent during the measurement as required by the notification published

Proprietor who has failed to attend shall not be entitled to object subsequently.

under section fifty-five, shall be entitled at any subsequent time to make any objection to such measurement, but the Collector may admit any objection made by such proprietor or person if he think fit, provided that any expense entailed by a local inquiry made in consequence of such subsequent objection shall be paid entirely by such proprietor or person.

63. When the Deputy Collector is finally satisfied that the papers before him, whether rent-rolls, measurement papers, maps, or other papers are sufficient and sufficiently correct to be accepted or adopted for the purposes of the partition, he shall make an order to that effect, and shall fix a day on which to determine the general arrangement of the partition, and shall publish a notification in the manner prescribed by section one hundred and thirty-four, calling on all the proprietors to be present on the day so fixed, such day being not less than thirty or more than sixty days after the publication of the notification in his office, and shall serve a notice to the same effect on each proprietor or his agent.

PART VI. OF PARTITION BY AMICABLE ARRANGEMENT OR BY ARBITRATION.

64. On the date fixed under the last preceding section, if a petition to that effect signed by all the recorded proprietors shall have been presented, the Deputy Collector may allow such proprietors to make a private partition of the estate amongst themselves on the basis of the papers which have been accepted or adopted for the purposes of the partition by the Deputy Collector, or may refer the partition to be made by an arbitrator or arbitrators on such basis.

Deputy Collector may allow parties to make a private partition.

If the proprietors who have elected to make such private partition shall fail to make the same within such time as may be fixed by the Deputy Collector, the Deputy Collector may refer the partition to be made by an arbitrator or arbitrators, or may make the partition himself.

65. Whenever any partition shall have been referred to arbitration, the proceedings shall be conducted in accordance with the provisions of sections 313 to 325 (both inclusive) of Act VIII of 1859 (an Act for simplifying the procedure of the Court of Civil Judicature not established by Royal Charter) as far as those provisions are applicable, and except as herein otherwise expressly provided

Procedure on reference to arbitration.

the provisions of sections 313 to 325 (both inclusive) of Act VIII of 1859 (an Act for simplifying the procedure of the Court of Civil Judicature not established by Royal Charter) as far as those provisions are applicable, and except as herein otherwise expressly provided

66. The arbitrators shall deliver, within a time to be fixed by the Deputy Collector, which time may be further extended by him, a full and complete paper of partition in such form as may be prescribed by the Board for partitions made by the Collector or Deputy Collector.

Arbitrators to deliver a partition paper.

67. The arbitrators, on delivering the paper of partition as aforesaid, shall be entitled to reasonable fees for their services, the amount of which shall be fixed, with the approval of the Commissioner, by the officer making the reference to arbitration, and shall be considered to form part of the cost of making the partition.

Remuneration of arbitrators.

68. Every partition made under the provisions of this Part by the parties or by arbitrators appointed by them, shall be subject to the approval of the Deputy Collector and to the confirmation of the Collector and the orders of the superior revenue authorities; provided that neither the Deputy Collector nor any other authority shall disallow any partition so made on any other ground than that of fraud, or that, in the opinion of the Deputy Collector or such other authority, the partition cannot be confirmed without endangering the safety of the land revenue.

Partition made under this Part to be subject to approval of Collector, and superior revenue authorities.

69. Whenever a partition has been made under the provisions of this Part, the land revenue shall be assessed by the Collector on each separate estate into which the parent estate is divided by such partition in the manner prescribed by section six.

Land revenue to be assessed by Collector.

70. If the paper of partition be not delivered within the time fixed by the Deputy Collector, or within any further period to which the time may have been extended, the Deputy Collector may withdraw the case from arbitration and may make the partition himself.

In default of delivery of partition paper, Collector may withdraw case from arbitration.

PART VII.

OF THE PROCEDURE FROM THE DETERMINATION OF THE GENERAL ARRANGEMENT OF THE PARTITION BY THE DEPUTY COLLECTOR TO THE APPROVAL OF THE PARTITION BY THE COLLECTOR.

71. If no petition shall have been presented under section sixty-four, the Deputy Collector shall, on the date fixed under section sixty-three, or on any other date to which the hearing may have been postponed by a notice posted at the office of the Deputy Collector, consult orally each proprietor present, and endeavour, as far as possible, with the concurrence of the proprietors present, to settle a general arrangement of the partition in accordance with the requirements of this Act.

Procedure when no petition presented under section 64.

For this purpose he shall endeavour to obtain from each proprietor an acknowledgment of his acceptance of the rent-roll, map, and any other papers which have been adopted by the

Deputy Collector for the purposes of the partition, and shall briefly record the objections of any proprietor who still objects to accept such rent-roll, map, or other papers.

72. If, in consequence of any objections made before the Deputy Collector has settled the general arrangement of the partition as provided in the last preceding section, the Deputy Collector considers it necessary to make further inquiry, he may, by notice to the recorded proprietors, postpone the settlement of the general arrangement of the partition to a date being not less than fifteen days from the service of the notice on any proprietor.

73. If the objections on account of which the said settlement is postponed are such that the person making the same might have made them on an earlier day, the Deputy Collector may award to each proprietor who shall have attended in person or by agent in accordance with the notice, such sum, not exceeding sixteen rupees, as he shall think fit by way of compensation for such attendance.

The sum so awarded shall be paid by the person making the objections as aforesaid, and may be recovered from him in the manner provided by section one hundred and thirty-eight.

74. If the objections have already been enquired into and disposed of, or are such as not to render necessary any further inquiry and postponement, or when any objections which may require further enquiry have been disposed of, the Deputy Collector shall record an order to that effect, and after hearing what each proprietor present may urge, shall hold a proceeding determining the general arrangement of the partition and the mode in which the parent estate shall be divided, and, in a general way, the position of the lands which shall be assigned to each of the separate estates.

In determining the general arrangement of the partition, the Deputy Collector shall be guided by the rules which are laid down in Part VIII, and shall direct the partition to be made in the manner which, in his opinion, is on the whole most in accordance with such rules, and most equitable and most convenient to all parties concerned.

75. The general arrangement of the partition as determined under the last preceding section, shall be submitted for the sanction of the Collector, who shall by notice fix a date for the consideration of the same, not being less than fifteen days after the publication of the said notice in his office, and after hearing and disposing of any objection which may be preferred, shall pass such orders as he may think proper, setting aside, amending, or approving the general arrangement made by the Deputy Collector.

76. When the general arrangement has been approved by the Collector, the Deputy Collector shall proceed to fix the exact boundaries of each separate estate, after considering the wishes which the parties may express in respect thereof.

77. When the Deputy Collector shall have so determined the boundaries, he shall cause to be drawn up a paper of partition specifying in detail the villages and lands which he has included in each of the separate estates, the rental thereof, with any other assets of each separate estate, the name or names of the recorded proprietor or proprietors of each separate estate, any stipulations which may have been made regarding places of worship, tanks, or other matters as mentioned in Part VIII, and the amount of land revenue to be assessed on each separate estate; he shall also prepare a map showing the lands which fall within each separate estate and the boundaries thereof, unless the preparation of such map shall be dispensed with by special permission of the Collector.

78. The Deputy Collector shall submit the partition paper and map as aforesaid and all other papers of the partition to the Collector with a full report of the proceedings taken, the reasons which influenced the Deputy Collector in selecting the lands included in each separate estate, the nature of the accounts upon which the apportionment of the land revenue assessed thereon has been based, and all other particulars material to the case.

79. The Deputy Collector shall at the same time cause to be prepared a separate extract of the portion of the partition paper which relates to each separate estate,

and shall cause to be tendered to any recorded proprietor of a separate estate, or any authorized agent of such proprietor, who may be in attendance at the Deputy Collector's office, the extract which relates to such separate estate;

and the Deputy Collector shall publish a notice at his office calling upon every proprietor to whom or to whose agent an extract from the partition paper has not been tendered as above mentioned, to take out of the Deputy Collector's office the extract of the portion of the partition paper relating to his separate estate.

If the circumstances of the partition so require, an extract of the map prepared by the Deputy Collector, or a copy of such map, shall be annexed to every separate extract from the partition paper herein mentioned.

80. On receipt of the papers and report mentioned in section seventy-eight, the Collector shall cause a notification to be published in the manner prescribed by section one hundred and thirty-four fixing a date, not being less than six weeks from the date of the publication of such notification on the parent estate, on which he will proceed to take up the case, and to consider any representations and objections which may be preferred in respect of the partition made by the Deputy Collector, and calling on all parties concerned who may wish to do so, to inspect the papers at his office before such date, and to take copies of any such papers as they may require.

The Collector shall also cause a notice to the same effect to be served on each of the recorded proprietors.

81. On the date so fixed, or on any other date to which the hearing may have been postponed, the Collector shall take into consideration the papers as laid before him, and after calling for any further information which he may deem necessary, and disposing of any objections which shall be made to the proposed partition and allotment of land revenue, may approve the partition as made by the Deputy Collector with such amendments as he may think proper, or return it for amendment to the Deputy Collector who made it, or to another Deputy Collector, or make a fresh partition himself. The Collector may return the said papers for amendment or enquiry as often as he may think fit.

82. No proprietor who shall have failed to appear before the Deputy Collector in person or by agent on any date fixed for the arrangement of the partition under section sixty-three or section seventy-two, and no proprietor who shall have failed so to appear before the Collector on any date fixed under either of the two last preceding sections, shall be entitled, at any subsequent time, to make any objection to the orders which may be passed on such dates respectively.

83. When the Collector approves the partition made by the Deputy Collector with amendments, he may cause a fresh partition paper and map to be prepared, or may cause the amendments made by him to be noted on the paper and map submitted by the Deputy Collector.

When the Collector makes a fresh partition himself, he shall cause a fresh partition paper and map to be prepared.

84. Whenever the Collector shall have approved a partition (whether with or without amendments), he shall cause a notice to be served on each of the recorded proprietors that the papers will be submitted at once for confirmation of the partition by the Commissioner, and that any appeals or objections must be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the date of the service of the said notice, or, if the Collector has approved the partition with amendments, and the notice requires the proprietor to produce the extract of any partition in order that amendments may be noted thereon, or to take out a fresh extract from the partition paper, as provided in the next succeeding section, then within six weeks of such date.

85. Whenever the Collector shall have approved a partition with amendments, and shall, under section eighty-three, have caused such amendments to be noted on the partition paper and map submitted by the Deputy Collector, the notice to be served on each of the recorded proprietors under the last preceding section shall, in the case of every such proprietor whose separate estate is affected by such amendments, in addition to the particulars mentioned in the said section, require such proprietor to produce before the Collector, within fifteen

days of the service of such notice, the extract from the paper of partition which has been prepared, and any map relating to his separate estate which may have been prepared, under section seventy-nine, in order that the amendments made by the Collector in the partition may be noted thereon; and such amendments shall be noted thereon by the Collector accordingly, and such extract and map shall be returned to the proprietor who produced them.

Whenever the Collector shall have caused, under section eighty-three, a new partition paper and map to be prepared, he shall order separate extracts from the portions of the partition paper which relate to each separate estate, and maps, if necessary, to be prepared as required by section seventy-nine, and in such case the notice served under the last preceding section shall, in addition to the particulars mentioned in that section, declare the extracts and maps which were furnished or offered to proprietors under section seventy-nine to be cancelled, and shall require the recorded proprietors to take out of the Collector's office such extracts and maps relating to their respective separate estates.

86. As soon as practicable after the issue of the notice under section eighty-four the Collector shall forward to the Commissioner all papers relating to the partition as approved or as made by the Collector.

PART VIII.

OF THE GENERAL PRINCIPLES ON WHICH PARTITIONS SHALL BE MADE.

Rules applicable to the partition of lands which are held by the proprietors in common tenancy.

87. Each separate estate shall be made as compact as is compatible with the primary object of making an equitable partition among the proprietors, and with the other provisions of this Part, but no partition made or approved by a Collector shall be set aside on the ground only that the separate estates are not compact.

88. In selecting the villages or lands to be assigned to each separate estate formed out of a parent estate which has been held in common tenancy, the Collector shall take into consideration the advantages or disadvantages arising from situation; the vicinity of roads, railways, navigable rivers, or canals; the nature and quality of the soil and produce; the quantity of cultivable and uncultivable waste land; the facilities for irrigation; the state of the embankments and water-courses; liability to accretion and diluvion, and any other circumstances affecting the value of the lands.

89. If a dwelling-house belonging to one proprietor is situated on any land which it may be necessary to include in the separate estate of another proprietor, the owner of such

house may retain occupation thereof with the offices, buildings, and grounds immediately attached thereto, upon agreeing to pay rent for the land occupied by such dwelling-house, offices, buildings, and grounds to the proprietor of the separate estate in which such land is included.

The limits of the land so occupied and the rent to be paid for it in perpetuity shall be fixed by the Deputy Collector, and shall be stated in the paper of partition.

In every such case a defined pathway shall, as far as possible, be secured to the owner of the house, leading from his house to some portion of the separate estate allotted to him.

90. Whenever the Deputy Collector shall think fit, he may apply the rule contained in the last preceding section to gardens, to orchards of trees, to land planted with bamboos, and to any other lands which in his opinion are of special value to the proprietor in whose occupation they are found to be, in consequence of improvements made by such proprietor or of the particular use to which such lands are put.

91. The rent fixed in perpetuity on any land by the Deputy Collector under either of the two last preceding sections shall be considered to be the rental of such land for the purposes of the partition.

92. Whenever the dwelling-house of one proprietor, with the offices, buildings, and grounds immediately attached thereto, shall have been included in the separate estate of another proprietor, and the annual rent to be paid in perpetuity in respect of the land occupied thereby shall have been fixed by the Deputy Collector and stated in the paper of partition, the proprietor whose dwelling-house, offices, buildings, and grounds have been included as aforesaid may apply to the Deputy Collector for permission to redeem the annual rent so fixed, and the Deputy Collector shall give such permission, unless he shall be of opinion that such redemption would endanger the safety of the land revenue for the payment of which the separate estate in which such dwelling-house, offices, buildings, and grounds have been included will be liable.

93. If the Deputy Collector shall see no such reason to refuse his permission to the redemption being made, he shall certify the amount payable by such proprietor in redemption of such annual rent; and such amount shall be calculated and fixed by the Deputy Collector at ten per centum above the sum which would be required to purchase, at the market prices then prevailing, so much stock of the Government loan which was last issued as would yield an annual amount of interest equal to the annual land rent fixed by the Deputy Collector under section eighty nine.

94. The proprietor desiring to redeem the rent as aforesaid, may pay to the Deputy Collector the amount so certified at any time before possession is given to the several proprietors of the separate estates allotted to each, as provided in section one hundred and twenty-three, but not after such possession has been given.

95. On receipt of such payment, the Deputy Collector shall give notice to the proprietor in whose separate estate such land is situated that such payment has been made, and that the sum will be paid to him or to his authorized agent on application; and that from the date on which possession as aforesaid may be given, the proprietor who has redeemed the rent of such land will be entitled to hold such land as a rent-free tenure secured against the proprietor of the estate and against any auction purchaser at a sale for arrears of revenue, including the Government; and from such date the lands shall be so held as a rent-free tenure.

96. The Deputy Collector shall at the same time also give notice to the Collector of the district of the creation of such tenure; and the Collector of the district shall thereupon cause such tenure to be specially registered in the manner provided by section 42 of Act XI of 1859, or by any similar law for the time being in force.

97. When two or more of the separate estates shall consist of the same proportions of the parent estate, the Deputy Collector may, if he thinks proper, direct the parties entitled thereto respectively to draw lots in his presence for the equal separate estates which have been formed by assignment of lands, unless the recorded proprietors of the equal shares shall agree among themselves as to the allotment of the equal separate estates and shall present a petition to that effect; or unless for any other reason the Deputy Collector shall, with the sanction of the Collector, think proper to assign the equal separate estates to the proprietors of the equal shares without causing lots to be drawn.

98. When the aggregate of two or more shares equals one other share or equals the aggregate of two or more other shares, the Deputy Collector, with the sanction of the Collector, may cause such aggregate shares to be treated as one share for the purpose of determining by lots as aforesaid which portion of the parent estate shall be assigned to each proprietor as his separate estate;

and may decide which shares shall be formed into one aggregate share for the purpose of causing such lots to be drawn;

and may cause lots to be drawn in like manner as often as he shall think proper for such purpose.

And after lots shall have been drawn once (or more than once if necessary) as aforesaid, the Deputy Collector shall proceed to divide the portion of the parent estate which has fallen by lot to each aggregate share, among the proprietors of the different shares which were formed into such aggregate share for the purpose of drawing lots, and shall assign to every such proprietor his separate estate within such portion in such position as the Deputy Collector may think proper.

Provided that lots shall in no case be drawn until after full opportunity shall have been given to the proprietors to advance their objections in respect of the papers accepted as the basis of the partition and in respect of the assets of the different lands as stated in such papers, and until any such objections which may have been made shall have been disposed of.

Illustrations.

I.—The partition of a parent estate is being made into the following shares:—

8 annas.
4 annas.
3 annas.
1 anna.

For the purposes of drawing lots, the 4 annas, 3 annas, and 1 anna share may be taken together, and considered to be an aggregate 8 annas share.

The Deputy Collector will divide the parent estate into two halves of equal value; and will then cause lots to be drawn, in order to determine which of the two halves shall be assigned to the proprietor of the integral 8 annas share, and which shall be divided among the proprietors of the 4 annas, 3 annas, and 1 anna shares.

Subsequently, if necessary, the Deputy Collector may again cause lots to be drawn by the proprietor of the 4 annas share on the one hand, and the proprietors of the aggregate share made up by taking together the 3 annas share and the 1 anna share.

II.—The partition is being made of a parent estate into the following shares:—

6 annas.
4 annas.
3 annas.
2 annas.
1 anna.

Two tracts in the estate may first be marked off, the value of each being equivalent to a 6 annas share, and then, for the purpose of drawing lots in respect of the assignment of these two tracts, the 4 annas share and the 2 annas share may be taken together as an aggregate 6 annas share, and lots may be drawn between the proprietor of the aggregate 6 annas share so formed on the one hand, and the proprietor of the integral 6 annas share on the other.

One of the two 6 annas tracts having thus been finally assigned to the proprietor of the integral 6 annas share, the Deputy Collector will proceed to assign the rest of the estate among the remaining sharers, and he may again, for the purpose of causing lots to be drawn mark off two tracts the value of each of which shall be equivalent to 6 annas of the parent estate, and may cause lots to be drawn for these two tracts between the proprietors of the 4 annas share and the 1 anna share taken together as an aggregate 5 annas share on the one hand, and the proprietors of the 3 annas share and the 2 annas share taken together as another 5 annas share on the other.

Finally, their separate estates will be assigned to the proprietor of the 4 annas share and of the 1 anna share respectively, within the tract which fell to them jointly by lot; and their separate estates will be assigned to the proprietors of the 3 annas share and of the 2 annas share respectively within the tract which fell to them jointly by lot.

99. The Deputy Collector may, by a notice

Deputy Collector may require proprietors to attend or appoint agent for the purpose of drawing lots.

served as provided in section one hundred and thirty-five, require any proprietor in respect of whose share lots are to be drawn as provided in either of the two last preceding sections, to attend at the office of the Deputy Collector in person or by authorized agent at a time to be fixed by the Deputy Collector for the purpose of drawing lots;

and may similarly require the proprietors of any shares which he may have ordered to be formed into an aggregate share for the purpose of drawing lots, jointly to appoint an agent to draw lots on their joint behalf; and if at the time fixed for drawing such lots such proprietors have failed to agree to any such joint appointment, or shall fail to cause the attendance of an agent authorized to act jointly for all such proprietors, all such proprietors shall be deemed to have failed to comply with the Deputy Collector's requisition.

100. Whenever any proprietor or proprietors

In default Deputy Collector may appoint a person to draw lots.

shall have failed to comply with a requisition of the Deputy Collector under the last preceding section, the Deputy Collector may appoint a person to draw lots on behalf of such proprietor or proprietors.

Rules applicable to the formation into separate estates of lands which are held by proprietors in severalty.

101. Whenever in any parent estate a division

Joint petition may be presented for partition according to private division.

of the lands thereof has been made by private arrangement of the proprietors of such estate, and in accordance with such arrangement each proprietor is in possession of separate lands held in severalty as representing his interest in such parent estate, the joint application presented to the Collector by all the recorded proprietors of such estate as required by section twelve may be to the effect that a partition of such estate be made by assigning to each proprietor or to two or more proprietors jointly as his or their separate estate, the lands of which they are in separate possession in accordance with such arrangement, and also that each separate estate so formed be made liable for such portion of the entire land revenue of the parent estate, as was paid by the proprietor or proprietors thereof under the private arrangement aforesaid.

102. The Deputy Collector who is appointed

Partition according to private division to be referred to Collector.

to carry out the partition in accordance with such application, shall satisfy himself that the assets of each separate estate which it is proposed to form are sufficient to secure the payment of the annual amount of land revenue for which it is proposed to make such separate estate liable, and if the Deputy Collector be satisfied that in this respect, and with reference to all the circumstances of the case, that the partition of the lands and the assessment of the revenue thereon may be made in the manner proposed without endangering the safety of the revenue, the Deputy Collector shall submit the case with his opinion thereon, and the reasons on which such opinion is founded, to the Collector, who may admit or reject the said application.

103. If the Collector admits the said application,

Effect of Collector's approval.

such admission shall be deemed to be the Collector's approval of the general arrangement of the partition as provided in section seventy-five, and the Deputy Collector shall proceed to complete the partition accordingly.

104. If the Deputy Collector, who is appointed

Such partition may be refused.

to carry out the partition in accordance with a joint application under section one hundred and one, is not satisfied that the partition of the lands and the assessment of the revenue payable thereon can be made in the manner proposed without endangering the safety of the public revenue, or if the Collector rejects the application for such partition, the Deputy Collector shall refuse to make the same.

105. Whenever the proprietors of an estate

Joint petition may be presented for partition of land in accordance with private division with proportional redistribution of public revenue.

are, in accordance with a private arrangement as aforesaid, respectively in possession of separate lands held in severalty as representing their respective interests in the estate, the joint application presented to the Collector by all the recorded proprietors of the estate as required by section twelve, may be to the effect that a partition of such estate be made by assigning to each proprietor, or to two or more proprietors jointly, as his or their separate estate, the lands of which they are in possession in accordance with such arrangement, and that the land revenue for which the parent estate is liable may be apportioned among the separate estates so formed in accordance with the provisions of section six.

A joint application under this section may be made notwithstanding that a joint application under section one hundred and one has been refused in respect of the same estate.

106. Whenever the Deputy Collector who is

Lands of which each proprietor is in possession to be allotted to him.

appointed to carry out a partition, shall find that in accordance with a private arrangement made by the proprietors of an estate, the proprietors respectively, or any of the proprietors, are in possession of separate lands held in severalty as representing portions only of their respective interests in the parent estate, while other lands of the parent estate are held in common tenancy between such proprietors, a joint application as mentioned in section twelve shall not be necessary to authorize the Collector to make a partition of the estate, but the Deputy Collector shall allot to the separate estate of each proprietor the lands of which such proprietor is found to be in possession in severalty, in accordance with such private arrangement.

Lands held in the occupation of the several proprietors of an estate as *sir*, *khamar*, or *nij-jote*, or under any other similar denomination, shall not be deemed to be lands held in severalty as representing portions of their respective interests in the parent estate within the meaning of this section, which applied only to cases in which there has been a *bond fide* division, by private arrangement among the proprietors, of lands held by tenants.

107. Notwithstanding anything contained in

Collector may cause transfer of lands agreed to by parties.

the last preceding section, the Collector may cause any transfer of lands agreed to by the parties to be made from the possession of one proprietor to that of another.

Rules applicable both to lands held in common tenancy and to lands held in severalty.

108. Places of worship, burning grounds, and

Rule as to places of worship.

burial grounds which have been held in common previous to the partition of an estate, and lands of which the proceeds have been assigned by the proprietors jointly for religious, charitable, or public purposes, shall continue to be held in common, unless the proprietors shall otherwise agree amongst themselves, in which case they shall state in writing the agreement into which they have entered, and the Deputy Collector

shall enter a note of the agreement in the paper of partition.

109. Tanks, wells, water-courses, and embank-

Rule as to tanks, wells, water-courses, and embankments.

ments shall be considered as attached to the land for the benefit of which they were originally made.

In cases in which, from the extent, situation, or construction of such works, it shall be found necessary that they should remain the joint property of the proprietors of two or more of the separate estates, the paper of partition shall specify, as far as the circumstances may admit, the extent to which the proprietors of each of such estates may make use of the same, and the proportion of the charges for repairs to be borne by them respectively.

110. Whenever the Deputy Collector shall

Lands held rent-free not to be divided.

find in the parent estate lands which are actually held rent-free (whether the pro-

prietors of the estate do or do not claim a right to receive rent from such lands), the Deputy Collector shall make no division or assignment of such lands among the separate estates, but shall specify in the partition papers and proceedings that such lands are left appertaining jointly to all the separate estates which are formed out of the parent estate, in the proportion which each separate estate bears to the parent estate.

Provided that such lands or any of them may be allotted among the different separate estates with the consent of all the recorded proprietors of the parent estate, but not otherwise.

111. Whenever the Deputy Collector shall

Rule as to permanent intermediate tenures.

find in the parent estate any lands which are held at a fixed rent on a *patni* or

other permanent intermediate tenure falling within Exception 2 or Exception 3 of section seven, the Deputy Collector may either

(1) assign the lands which are held on such tenure and the assets thereof entirely to one or more of the separate estates, the rental being calculated as provided in Exception 2 or in Exception 3 (as the case may be) of section seven; or

(2) leave such lands unassigned to any separate estate, and specify in the partition paper and proceedings that the lands are left appertaining jointly to all the separate estates which are formed out of the parent estate in the proportion which each separate estate bears to the parent estate. In the event of such lands being so left undivided, the Deputy Collector shall assign to each separate estate such share of the rental of the tenure as shall bear the same proportion to the entire rental of the tenure, as the separate estate bears to the parent estate.

In dealing with a tenure under this section, the Deputy Collector shall take into consideration the extent of the lands comprised in the tenure, and all other circumstances of the case.

112. Whenever any lands are held in common

Lands held in common between the proprietors of two or more estates how to be dealt with.

between the proprietors of two or more estates, one of which is under partition in accordance with the provi-

sions of this Act, the Deputy Collector shall first allot to the estate under partition a portion of such common lands of which the assets are in proportion to the interest which

the proprietors of such estate hold in the said common lands; and all the provisions of this Act in respect of the allotment between the shareholders in one estate, of lands which are held jointly by such shareholders, shall, as far as possible, apply to the allotment of the proportionate share of such common lands to the estate under partition;

and; in respect of the service of notices, hearing of objections, and all other procedure in view to such allotment, the proprietors of the estate under partition, and the proprietors of all other estates who have an interest in the said common lands, shall be deemed to be joint proprietors of a parent estate consisting only of the lands so held in common.

Provided that all expenses of any division of lands so held in common between the proprietors of two or more estates shall be deemed to be expenses of making the partition of the estate which is under partition, and shall be leviable as provided by this Act from the proprietors of such estate, and the proprietors of any other estate having an interest in such lands shall not be required to bear any portion of such expenses.

113. Notwithstanding anything contained in the last preceding section, if it shall appear to the Commissioner, on the report of the Collector or otherwise, that the proceedings for such division have been unnecessarily delayed, and the cost of such division enhanced by obstacles vexatiously put in the way of the completion of such division by any proprietor of any estate other than that under partition, or by want of due diligence on the part of any such proprietor in carrying out any requisitions made upon him, the Commissioner may direct that such sum as he shall think fit shall be levied from every such proprietor who is responsible for such delay or additional cost, and every sum so levied shall be taken in diminution of the amount payable by the proprietors of the estate under partition as costs of such partition.

114. The allotment to the estate under partition of the proportionate share of the lands so held in common shall be submitted for the approval of the Collector, who may confirm, amend, or reject the same, and in the case of rejection, may make or direct to be made another allotment.

115. As soon as the allotment to the estate under partition of a proportionate share of the said lands shall have been approved by the Collector, the lands so allotted shall be dealt with in every respect as if they were held in common tenancy by such of the proprietors of the estate under partition as were found to hold interests in the common lands.

116. If a dispute or doubt shall be found to exist as to whether any lands form part of the parent estate, the Deputy Collector shall enquire into the fact of possession, and shall report his conclusions, with the reasons thereof, to the Collector; whereupon the Collector may (whether the possession of

disputed lands is with the proprietors of the parent estate or otherwise) order that the partition be struck off the file, and in that case no application for a partition of the said estate shall be admitted until the applicant can show that the dispute or doubt has been decided by a court of competent jurisdiction, or has been amicably settled;

or, if the Collector shall find that possession of the disputed lands is with the proprietors of the parent estate, and if it shall appear to him that the claim of the other parties to the right in such lands is untenable, he may order that the partition shall proceed, and that the disputed lands be treated as part of the estate under partition.

Provided that no partition shall be made under this section, if such partition would involve the assignment to any separate estate of such a quantity of the disputed land that the removal of such land from such estate would, in the opinion of the Collector, endanger the safety of the land revenue for which such estate would be liable after the partition.

117. If, after a partition has been completed in accordance with an order passed by the Collector under clause three of the last preceding section, the proprietor of any separate estate shall be dispossessed by a decree of a court of competent jurisdiction of any lands which may have been assigned to his estate by the partition, such proprietor shall not be entitled to claim any modification of the partition (which shall hold good), but shall be entitled to recover from the proprietors of the other separate estates formed by the partition such compensation as may be fair and equitable having regard to the reduction in the proportionate value of his separate estate which is caused by such dispossession;

and such compensation may be recovered in a court of competent jurisdiction from the proprietors of those separate estates on which a proportionate share of the total loss caused by the order of dispossession does not fall.

PART IX.

OF THE PROCEDURE BEFORE THE COMMISSIONER UP TO THE COMPLETION OF THE PARTITION.

118. If no appeal or objection shall be presented within the time allowed by section eighty-four, the Commissioner may proceed to consider the case without issue of any notice, and may confirm the partition made by the Collector.

119. If it shall appear to the Commissioner that the proceedings of the Collector should be amended, or if a petition of appeal or an objection shall have been presented within the time allowed by section eighty-four, the Commissioner shall fix a day for hearing and disposing of the case, and shall cause a notification of the same to be published and a notice of the same to be posted up in his own office.

120. On the day so fixed, which shall not be less than thirty days after the publication of the said notification at the office

Procedure when Collector thinks that lands belong to parent estate.

Procedure when partition completed and proprietor of an estate dispossessed by order of a competent court.

Proprietors of other estates may be required to pay a portion of expenses of partition.

Allotment of lands held in common to be sanctioned by Collector.

The portion of such common lands assigned to estate under partition how to be dealt with.

Procedure when dispute exists as to whether any lands form part of the parent estate.

Commissioner to fix a day for hearing case.

Commissioner to confirm, amend, or return petition.

of the Collector, or on any subsequent day to which the hearing of the case may extend, or on any subsequent day to which the hearing may have been postponed by a notice published in his own office, the Commissioner shall, after hearing and disposing of all objections, and calling for any further information which may be necessary, either confirm the partition as made by the Collector or amend the same, or return the papers of the partition to the Collector for any changes the Commissioner may think proper to be made.

If the partition is returned to the Collector for amendment, the Collector shall proceed to make the said amendments or to cause them to be made in the same manner as if he had himself passed such orders on a partition submitted to him for approval by a Deputy Collector.

121. The Commissioner may, before confirming a partition, return the papers for amendment or inquiry as often as he shall think fit, and as often as he shall so return them the procedure prescribed in the three last preceding sections shall be followed.

122. After the expiration of not less than sixty days from the date of the order of the Commissioner confirming a partition, or, if an appeal has been preferred to the Board, or if any proceedings in respect of the partition be pending before the Board, then on receipt of the final order of the Board determining that the partition as sanctioned by the Commissioner shall not be disturbed, the Collector shall cause to be published in his office, and in some conspicuous place in each of the estates separately constituted by such order, a notice that the partition has been finally confirmed as it was sanctioned by the Commissioner, or with any amendments or alterations, as the case may be.

If the partition as finally sanctioned involves any amendments which may conveniently be made on the extracts of the partition paper and on any maps which have been prepared and delivered or offered by notice to the recorded proprietors as required by section seventy-nine or section eighty-five, the Collector shall cause a notice to be served on every recorded proprietor whose estate is affected by such amendments requiring him to produce such extracts and maps in order that such amendments may be noted on them;

and if the alterations made in the partition as finally sanctioned be such as to make it desirable to prepare fresh extracts and maps as aforesaid, the Collector shall cause such fresh extracts and maps to be prepared; and shall cause a notice to be served on each proprietor declaring the extract and map which was furnished or offered to him under section seventy-nine or section eighty-five, as the case may be, to be cancelled, and requiring him to take out of the Collector's office the fresh extract and map which have been prepared.

123. The Collector shall then proceed to give the several proprietors possession of the separate estates allotted to each, and if necessary, may require the assistance of the Magistrate in giving such possession; and shall cause to be served on every recorded

proprietor of a separate estate a notice informing him that from the date specified in such notice, the separate estate assigned to him (as described in the extract from the partition paper prepared and delivered or offered to him under section seventy-nine, section eighty-five, or the last preceding section, as the case may be) will be deemed to be separated from the parent estate, and to be separately liable for the amount of land revenue specified in such notice, and calling upon him to enter into a separate engagement for the payment of such revenue.

124. The date specified in such notice shall not be more than three months after the proprietors have been put in possession of their respective separate estates as herein provided.

125. From the date specified in such notice, each separate estate shall be borne on the revenue roll and General Register of the Collector as a distinct estate separately liable for the amount of land revenue assessed upon it under this Act; and shall be so liable, whether the proprietor have executed an agreement for the payment of the amount of land revenue so assessed upon the said estate, or whether he shall have failed to execute such agreement.

126. The Collector may direct the construction of such boundary marks as he may think proper to distinguish the lands of each separate estate, and the cost of such boundary marks shall be deemed to be expenses of the partition.

Boundary marks erected under this Act shall be assigned to zemindars, or to zemindars jointly with tenure-holders, for preservation, as provided in the second clause of section 29 of "The Bengal Survey Act, 1875," and after they have been so assigned, the provisions of sections 19, 20, and 52 to 57 (both inclusive) of the said Act shall apply to such boundary marks.

PART X.

MISCELLANEOUS.

127. The Deputy Collector, with the consent of all the parties concerned, may refer to arbitration any point arising in the course of a partition; and the provisions of sections sixty-five and sixty-seven shall, as far as possible, be applicable to such references.

128. If any proprietor of an estate held in common tenancy and brought under partition in accordance with the provisions of this Act shall have given his share or a portion of it in patni or other tenure or lease, such tenure or lease shall hold good, as regards the lands finally allotted to the share of the lessor, and only as to such land.

Illustrations.

I.—A, the proprietor of a quarter share in a joint undivided estate held in common tenancy, gives to B a patni tenure of the whole of his interest in the estate, entitling B, as long as such estate is held in common

tenancy, to collect one-fourth of the rent payable by every ryot on the estate;

Partition of the said estate is made under this Act, and certain specific lands are assigned to A as his separate estate;

B will become patnidar of the entire separate estate which has been assigned to A, and will be entitled to collect the whole of the rents from the ryots on that estate.

II.—A, the proprietor of a quarter share in a joint undivided estate held in common tenancy, gives to B a patni tenure of one-half of his share in the estate, entitling B, as long as such estate is held in common tenancy, to collect one-eighth of the rent payable by every ryot on the estate;

Partition of the estate is made under the Act, and certain specific lands are assigned to A as his separate estate;

B will become patnidar of one-half of A's separate estate, and will hold his patni in common tenancy with the half of A's interest which A has not given in patni so that B will be entitled to collect one-half of the rent payable by every ryot on A's estate, and A will be entitled to collect the other half.

129. If two or more estates shall come into the possession of one proprietor or of the same body of proprietors, such proprietor or body of proprietors, after being recorded as proprietors, may apply to have such estates united, and to hold them as a single estate.

130. Such application shall be made in writing to the Collector, and the Collector shall, not less than thirty days after the issue of a notification of such application (provided he see no objection), comply with the same, and cause the necessary entries to be made in the records of his office, and shall report the case to the Commissioner.

131. Whenever any separate estate created under this Act shall fall in arrear so as to require a sale of the land for the discharge of the arrear at any period within twelve years of the date of the confirmation of the partition, the Collector shall, if possible, ascertain the cause of the estate having fallen into arrear, and shall enquire whether such arrear has been caused by any fraudulent or erroneous allotment of the assessment or assignment of lands at the time of the partition, and shall make a report upon the case to the Commissioner for such action as the Commissioner may think proper.

132. If it shall be proved to the satisfaction of the Lieutenant-Governor at any time within twelve years from the date of the final confirmation of a partition by the Commissioner or by the Board, as the case may be, that through any fraud or error at the time of making the partition the assets of the lands assigned to any separate estate were not in proportion to the amount of land revenue for which such estate was made liable, or that the amount of land revenue assessed on any separate estate was not in proportion to the assets of the lands assigned to such estate, the Lieutenant-Governor may order a new allotment of the land revenue upon the separate estates in accordance with the principles prescribed in this Act, on an estimate of the assets of each such estate as they stood at the time of the partition, such estimate

being made on such evidence and information as may be procurable respecting the same.

133. Whenever the Lieutenant-Governor shall pass an order for the re-allotment of the land revenue on any separate estate under the last preceding section, the Lieutenant-Governor may direct that the proprietors whose estates are found to have been under-assessed shall, for each year during which they have held possession of the separate estates, be required to pay to the recorded proprietors of the estates which have been over-assessed, a sum equal to the annual amount in which the latter shall be found to have been over-assessed, and in default of payment the amount shall be leviable as provided in section one hundred and thirty-eight.

No order passed by the Lieutenant-Governor under this section shall be liable to be contested in any court.

134. Every notification required to be published in and by this Act shall, unless it is otherwise specially directed, be published by posting up copies of the same at the office of the Collector, and of the Deputy Collector who is making or has made the partition, at the māl cutcherry, or māl cutcherries (if any) of the proprietors of the parent estate, and at one or more of the principal villages on the said estate.

135. Every notice in and by this Act required to be served on any person may be served—

- (1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides, or by delivering the said notice to a general agent of the person to whom such notice is directed, or to any person who has been appointed in that behalf, or who has been appointed an agent of the person to whom the notice is directed for the general purposes of any partition under this Act; or
- (2) by sending a registered letter containing such notice directed to the said person at his usual place of abode or to the place where he may be known to be residing; or
- (3) by posting a copy of the notice at any māl cutcherry of the person to whom the notice is directed; or, if no such māl cutcherry be found, and if the notice cannot be served in any of the other modes mentioned in this section, on some conspicuous place on the estate to which such notice relates.

In all cases where two or more persons are joint applicants for the separation of an estate to be held by them jointly as a separate estate, service of notice under this section on any one such joint applicant shall be deemed to be good and sufficient service on each and all of such joint applicants.

136. Provided the directions of this Act be in substance and effect complied with, no proceedings under this Act shall be affected by reason of any mistake or by reason of any other informality, unless any person has suffered, or is in danger of suffering, material injury in consequence of such mistake or informality;

No proceedings under this Act to be affected by any mistake or misdescription.

and no proceedings under this Act shall be affected by reason of the omission to issue any notification required by this Act, or to serve any notice on any person whose name is not recorded in the Collector's registers as proprietor of the estate in respect of which the notice is required to be served.

137. If any proprietor or other person shall fail to comply, within the time fixed by a notice served on him as by this Act provided, with any requisition made upon him under this Act by the Collector or Deputy Collector, the Collector or Deputy Collector may impose upon him such daily fine as he may think fit, not exceeding fifty rupees;

and such fine shall be payable daily until the requisition is complied with,

and the Collector or Deputy Collector may proceed from time to time to levy the amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending;

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner, and no further levy in respect of such fine shall be made otherwise than by authority of the Commissioner.

138. Except as herein expressly otherwise provided, all fees, fines, costs, and other sums ordered to be paid by any person under this Act, shall be deemed to be demands under section 1 of Bengal Act VII of 1868 (an Act to make further provision for the recovery of arrears of land revenue and public demands recoverable as arrears of land revenue), and shall be leviable as such.

139. For the purpose of any enquiry under this Act, the Collector and Deputy Collector shall, in addition to every power conferred specially by this Act, have power to summon and enforce the attendance of witnesses, to examine witnesses, and to compel the production of documents by the same means (as far as may be), and in the same manner as is provided in the case of a Court under the Code of Civil Procedure.

140. All powers and functions which are assigned by this Act to a Deputy Collector may be exercised and discharged by the Collector; and whenever it is provided by this Act that any act done, or order made by a Deputy Collector shall require the sanction of the Collector, or shall be appealable to the Collector, if such act shall have been done or such order shall have been made by the Collector, it shall be deemed to have been sanctioned by the Collector, or to have been confirmed by the Collector in appeal, as the case may be.

Fine in case of non-compliance with notice or requisition.

Fees, &c., to be deemed a demand under Bengal Act VII of 1868.

Power of Collector to enforce attendance of witnesses.

Powers and functions assigned to Deputy Collector may be exercised by Collector.

141. The Lieutenant-Governor may vest any Government may vest Collector or Deputy Collector with certain powers, Collector or Deputy Collector with all or any of the powers which, under the provisions

of any law for the time being in force, might be exercised by them respectively, or might be conferred on them respectively, if they were making a settlement of the parent estate.

Such powers may be conferred either generally in respect of all estates in the partition of which the Collector or Deputy Collector may at any time and in any District be engaged, or specially in respect of any particular estate.

142. An appeal, if presented within one month from the date of the order appealed against, shall lie to the Collector against every order of a Deputy Collector

Appeal to the Collector.

(a) directing, under section forty-one, by whom the costs of an enquiry held in consequence of an objection preferred shall be paid;

(b) accepting or adopting any papers under section sixty-three for the purposes of a partition;

(c) refusing, under section sixty-eight, to confirm a partition made by the parties or by arbitrators;

(d) fixing, under section eighty-nine, the limits of land and the rent to be paid for it in perpetuity;

(e) refusing, under section one hundred and four, to make a partition as applied for by the joint applicants;

(f) passed under section one hundred and ten in respect of lands held rent free, or under section one hundred and eleven in respect of lands included in a tenure;

(g) imposing a fine under section one hundred and thirty-seven.

143. An appeal, if presented to the Commissioner, or to the Collector

Appeal to the Commissioner.

for transmission to the Commissioner, within one month from the date of the order appealed against, shall lie to the Commissioner against every order of the Collector (whether such order be passed by the Collector in the first instance, or in appeal from the order of a Deputy Collector)

(a) having the effect of rejecting an application for the partition of an estate, or for the separation of a share, or of putting an end to proceedings for effecting a partition or separation after the application has been admitted;

(b) directing, under section thirty-one, that an application for partition or separation be admitted;

(c) accepting or adopting any papers under section sixty-three for the purposes of a partition;

(d) refusing, under section sixty-eight, to confirm a partition made by the parties or by arbitrators;

(e) setting aside, amending, or approving the general arrangement of the partition under section seventy-five;

(f) approving, with or without amendment, a partition made by a Deputy Collector, or directing such partition to be amended or a fresh partition to be made, or making a fresh partition under section eighty-one;

(g) fixing, under section eighty-nine, the limits of land and the rent to be paid for it in perpetuity;

(h) refusing, under section one hundred and two, to allow a partition to be made in accordance with an existing private division;

(i) passed under section one hundred and ten in respect of lands held rent-free, or under section one hundred and eleven in respect of lands included in a tenure;

(k) approving or disallowing, under section one hundred and fourteen, the allotment to the estate under partition of a portion of lands held in common tenancy between the proprietors of such estate and the proprietors of one or more other estates;

(l) passed under section one hundred and sixteen as to disputes or doubts regarding land;

(m) imposing or confirming the imposition of a fine under section one hundred and thirty-seven;

(n) imposing any fine amounting to more than fifty rupees, or directing the payment of any costs amounting to more than fifty rupees.

144. An appeal, if presented to the Board, or to the Commissioner for transmission to the Board, within six weeks from the date of the order appealed against, shall lie to the Board against every order of the Commissioner which confirms, modifies, or reverses any order of the Collector.

(a) having the effect of rejecting an application for the partition of an estate, or for the separation of a share, or of putting an end to proceedings for effecting a partition or separation after the application has been admitted;

(b) directing, under section thirty-one, that an application for partition or separation be admitted;

(c) accepting or adopting any papers under section sixty-three for the purposes of a partition;

(d) approving or disallowing, under section one hundred and fourteen, the allotment to the estate under partition, of a portion of lands held in common tenancy between the proprietors of such estate and the proprietors of one or more other estates;

and against every order of the Commissioner—
(e) directing, under section forty, that any proprietor shall pay more than his proportionate share of the expenses of a partition, when the excess which he is ordered to pay exceeds five hundred rupees;

(f) directing, under section one hundred and thirteen, that any sum shall be paid by the proprietor of an estate other than the estate under partition, when such sum exceeds five hundred rupees;

(g) confirming, under section one hundred and eighteen or section one hundred and twenty, or amending or setting aside under section one hundred and twenty, a partition as made by the Collector;

(h) imposing, or confirming the imposition of any fine amounting to five hundred rupees, or ordering or confirming an order directing the payment of any costs amounting to more than five hundred rupees.

145. Except as provided in the three last preceding sections, no appeal shall lie as of right against any order passed under this Act by any

officer; but the proceedings and orders of every Deputy Collector under this Act shall be subject to the supervision and control of the Collector; the proceedings and orders of every Deputy Collector and of the Collector to the supervision

and control of the Commissioner; and the proceedings and orders of all revenue officers, to the supervision and control of the Board;

and any order passed and anything done under this Act may be modified, amended, or reversed by the supervising and controlling authority at any time before possession of their respective separate estates has been given to the several proprietors as provided in section one hundred and twenty-three, but not after such possession has been given, except as provided in the next succeeding section.

146. Any proceedings of a revenue officer connected with giving possession to the proprietors of their respective separate estates as provided in section one hundred and twenty-three, may be set aside or amended as above provided by any supervising and controlling revenue authority, provided that such supervising and controlling authority shall within three months of the date on which such possession may have been given, make an order to the effect that such proceedings are under the consideration of such authority.

Such order shall be communicated to the Collector of the district, who shall cause the same to be published by notification in the manner prescribed by section one hundred and thirty-four.

147. The Commissioner and the Board may pass such orders as they shall think fit in respect of the payment of costs of any appeal which is made to them respectively under this Act.

148. If, in any case in which a Collector or other officer shall exercise jurisdiction under this Act, any person is guilty of the offences of giving or fabricating false evidence, or of forgery, as defined in the Indian Penal Code, or of abetting any of those offences, such Collector or other officer shall have the same powers in respect of such offence, and of the person charged with committing the same, as are vested by the Code of Criminal Procedure in a civil court, when any such offence is committed before or against such court, or when a document believed to be a forgery is given in evidence in any proceedings in such court.

149. No order of a revenue officer which is not liable to be set aside by civil suit.

(a) refusing to allow a partition on the grounds mentioned in section eleven;

(b) rejecting or directing to be amended an application under section twenty;

(c) made under the first clause of section thirty-two;

(d) made under Part IV, Part V, Part VI, Part VII, Part VIII (except as provided in the next succeeding section), or Part IX;

(e) imposing a fine;

(f) in respect of the payment of costs of any appeal under section one hundred and thirty-seven,

shall be liable to be contested or set aside by a suit in any court, or in any manner other than as is expressly provided in this Act.

When suit may be brought to set aside order of revenue officer.

any person claiming a greater interest in any lands which were held in common tenancy between two or more estates than has been assigned to him by the order of a revenue officer under section one hundred and twelve or section one hundred and fourteen ;
and any person who is aggrieved by any order of a revenue officer passed under section one hundred and sixteen ;
may bring a suit in a court of competent jurisdiction to modify or set aside such orders of the revenue officer.

151. In the execution of the duties vested in the Board by this Act, the Board shall be guided by such orders or instructions as they may from time to time receive from the Lieutenant-Governor.

152. The Board may, from time to time, make rules, not being inconsistent with this Act—

(a) to regulate the expenses of effecting partitions, or the amount of fees to be levied in respect of partitions, the allotment of the same among the proprietors, and the instalments in which, and the times at which the same shall be paid under Part IV ;

(b) to regulate the receipts, disbursements, and management of any "Estates" Partition Fund" formed under section forty-five ;

(c) to regulate the employment and remuneration of amins and other subordinate officers appointed under Part IV, to enable the officer making the partition to keep himself informed of the proceedings of such officers, and to exercise a proper control over them ;

(d) to regulate the form in which the partition papers shall be framed under section sixty-six and section seventy-seven ;

(e) and generally for the guidance of officers in conducting partitions under this Act.

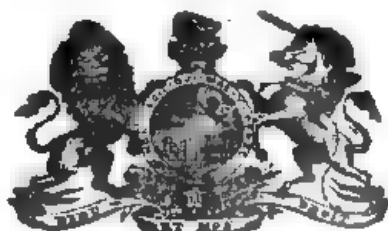
SCHEDULE.

See Section 2.

Number and year.	Subject or abbreviated Title.	Extent of repeal.
Regulation XI of 1811.	For extending period of re- solving land on certain lands.	So much as has not been repealed.
Regulation XIX of 1814.	Consolidating Regulations respecting Partition of Estates.	Ditto.
Act XX of 1838	Quashing of Batwaras	Ditto.
Act XI of 1838	Remuneration of persons effecting a partition.	Ditto.

FREDERICK CLARKE,

Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Department.



The Calcutta Gazette.

WEDNESDAY, OCTOBER 25, 1876.

PART III.

Act of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

[Third Publication.]

The following Act, passed by the Lieutenant-Governor of Bengal in Council, received the assent of His Honor on the 26th August 1876, and having been assented to by the Governor-General on the 18th September 1876, is hereby published for general information:—

Act No. VIII of 1876.

An Act to make better provision for the Partition of Estates.

Preamble.
WHEREAS it is expedient to consolidate and amend the law relating to the partition of estates;
It is enacted as follows:—

PART I.

PRELIMINARY.

Short Title.

1. This Act may be called the "Estates" Partition Act, 1876."

Local extent.
It extends to the territories for the time being under the administration of the Lieutenant-Governor of Bengal;

Commencement.
And it shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General, which date is hereinafter referred to as the commencement of this Act.

Law repealed.
2. On the commencement of this Act, the Regulations and Acts specified in the schedule hereto annexed, to the extent mentioned in the

third column thereof, shall cease to have effect in the territories subject to the Lieutenant-Governor of Bengal, save so far as they repeal or modify any other Regulations or Acts, and save so far as regards the partition of any estate which shall be pending at the time of the said commencement.

The partition of any estate which shall be pending at the time of the commencement of this Act shall (except as provided in the next succeeding section) proceed and be completed in the same manner as if this Act had not been passed.

3. The provisions of this Act, so far as they relate to the continuation of a partition from the point which it has reached, or to the staying of the partition of an estate, or to striking a partition case off the file, may be applied, at the discretion of the Collector, in all cases of partition of estates pending at the time of the commencement of this Act, provided that before applying such provisions to the continuation of a partition the Collector give due notice in each case to the parties concerned that such provisions will be applied.

Interpretation clause.
4. In this Act—unless there be something repugnant in the subject or context—

(i) "Amin" means a person who is appointed by the Collector or Deputy Collector to make any measurement, survey, or local inquiry, or to prepare the papers showing the result of any measurement, survey, or local inquiry.

(ii) "Applicant" means any person who has applied to the Collector under the provisions of this Act, for the separation from the parent estate of lands representing his interest in such parent estate, and for the assignment to him of such lands as a separate estate liable for a demand of land revenue distinct from that for which the parent estate is liable.

(iii) "Assets of land" include the rental of the land with respect to which the expression is used, and all profits derived by the proprietors out of such land from rights of pasturage, forest-rights, fisheries, and all other legal sources.

(iv) "Assets of an estate" mean the assets of all land included in an estate.

(v) "Board" means the Board of Revenue for the provinces for the time being subject to the Lieutenant-Governor of Bengal.

(vi) "Chapter" means a chapter of this Act.

(vii) "Deputy Collector" includes any Assistant Collector, Deputy Collector, or Sub-Deputy Collector whom the Collector may appoint (as he is hereby empowered to do) to effect a partition and allotment of assessment under this Act, or to conduct any of the proceedings connected with such partition and allotment.

(viii) "Estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land revenue.

(ix) "Joint undivided estate" means all lands which are borne on the revenue-roll of a Collector as liable for the payment of one and the same demand of land revenue, and of which two or more persons are proprietors.

(x) "Land" does not include the houses and buildings standing thereon.

(xi) "Lieutenant-Governor" means the Lieutenant-Governor of Bengal for the time being or the person acting in that capacity.

(xii) "Parent estate" means any estate for the partition of which proceedings may be in progress under this Act, or of which the partition may have been effected under this Act.

(xiii) "Proprietor" includes every person who is in possession of any estate under partition, or of any portion of such estate, or in any part of such estate, as owner thereof, whether such person be or be not a recorded proprietor of the estate.

(xiv) "Recorded proprietor" means a person whose name is registered on the Collector's General Register of revenue-paying lands as proprietor of an estate or of any share or interest therein.

(xv) "Section" means a section of this Act.

(xvi) "Separate estate" means any distinct estate which may be formed by the partition of a parent estate under this Act, or for the forma-

tion of which proceedings may be in progress under this Act.

(xvii) "The Collector" means the Collector of the district on the revenue-roll of which the estate under partition, or which it is proposed to bring under partition, is borne, and includes any officer whom the Board may generally vest (as it is hereby empowered to do) with the powers of a Collector under this Act, and to whom the Collector of the district has, with the sanction of the Commissioner, delegated (as he is hereby empowered to do) any of his duties and functions in respect of the partition of any estate; and any officer whom the Board may specially vest (as it is hereby empowered to do) with the powers of a Collector for the purposes of any partition under this Act.

(xviii) "The Commissioner" means the Commissioner of Revenue to whom the Collector engaged in making the partition is subordinate.

5. All partitions of estates which shall be ordered to be made after the commencement of this Act, shall be made under the provisions of this Act, and no such partition made otherwise than under this Act shall relieve any lands from liability to Government for the total demand of land revenue assessed upon the estate of which they form a part.

6. The amount of land revenue assessed on each separate estate shall bear the same proportion to the whole amount of land revenue for which the parent estate was liable, as the assets of such separate estate bear to the whole assets of the parent estate.

7. Except as hereinafter otherwise expressly provided, the average of the amount of rent which was payable for any land by the cultivating ryots during the three years immediately preceding the year in which proceedings are taken under this Act for the partition of the estate shall, for the purposes of this Act, be deemed to be the rental of such land;

and if any land is not let, but is held and occupied directly by the proprietors or any of them, the annual rent for which such land might reasonably be expected to let shall be deemed to be the rental of such land.

Exception 1.—If the rent payable by the cultivating ryots on account of any land shall have been determined by any Court of competent jurisdiction, or shall have been altered with the consent of the said ryots at any time during the said three years, the amount so determined, or the amount to which the rent may have been so altered, may, if the Collector think proper, be deemed to be the rental of the land.

Exception 2.—If any land is held on a permanent tenure which was created by all the proprietors of the estate, and which by any law for the time being in force is protected against the purchaser at a sale for arrears of revenue, the rent payable by the holder of such tenure shall be deemed to be the rental of such land.

Exception 3.—If any land is held on a tenure which, although not protected as aforesaid, is admitted by all the recorded proprietors of the estate to be a permanent tenure created by all the

proprietors of the estate, subject only to the payment of an amount of rent fixed in perpetuity, and of such nature that the rent thereof is not liable to be enhanced under any circumstances by the proprietors of the said estate, or any person deriving his title from such proprietors, the rent payable by the holder of such tenure (whether he be known as talukdar, patnidar, mokarraridar, or by any other designation) shall be deemed to be the rental of such land.

Exception 4.—If any land be unoccupied, such amount as the Collector may determine, with reference to all the circumstances of the case, shall be deemed to be the rental of such land.

PART II.

OF THE RIGHT TO CLAIM PARTITION.

8. Except as hereinafter otherwise provided, every recorded proprietor of a joint undivided estate, who is in actual possession of the interest in respect of which he is so recorded, is entitled to claim a partition of the said estate, and the separation therefrom and assignment to him as a separate estate of lands representing the interest of which he is in such possession, provided that, and as far only as, such partition, separation, and assignment can be made in accordance with the provisions of this Act.

Any two or more such recorded proprietors may claim that lands representing the interests of all such claimants may be formed into one separate estate to be held by them as a joint undivided estate; and every provision of this Act which applies to an applicant for partition shall apply to any two or more persons making such joint claim.

9. (a) If the interest of any recorded proprietor who is entitled to claim partition as aforesaid is an undivided share in an estate held in common tenancy, such person shall be entitled to have assigned to him as his separate estate lands of which the assets shall bear the same proportion to the assets of the parent estate as his undivided share in the parent estate bears to the entire parent estate.

(b) If the interest of such recorded proprietor is the proprietary right of certain specific mouzabs or lands forming part of the parent estate, and held by him in severalty, he shall be entitled to have assigned to him as his separate estate the said mouzabs or lands.

(c) If the interest of such recorded proprietor consists of an undivided share held in common tenancy in certain specific mouzabs or tracts forming part of the parent estate, but not extending over the whole area of the parent estate, he shall be entitled to have assigned to him as his separate estate lands situated within such specific mouzabs or tracts, of which the assets shall bear the same proportion to the assets of such specific mouzabs or tracts as his undivided share in such specific mouzabs or tracts bears to the entire mouzabs or tracts.

Provided that if the interest of such recorded proprietor consists of such undivided share in more than one mouzah or tract, he shall not

be entitled to have lands assigned to him in every such mouzah or tract, but the Collector may assign to him as his separate estate lands situated in any one or more of the said mouzabs or tracts, provided that the assets of such lands are in proportion to the aggregate of the interests which he holds in all such mouzabs or tracts.

(d) If such recorded proprietor holds in the parent estate more than one of the kinds of interest specified in this section, lands shall be assigned to him as far as possible in accordance with the principles above laid down.

10. Notwithstanding anything hereinbefore contained, no person having a proprietary interest in an estate for the term of his life only shall be deemed to be a person entitled to claim partition under this Act.

11. No application for the partition of a permanently-settled estate shall be admitted, and if the application shall have been admitted, no partition shall be carried out in accordance with such application, if the separate estate of any of the proprietors would be liable for an annual amount of land revenue not exceeding one rupee, until the proprietor of such separate estate agrees to redeem the amount of revenue for which his estate would be liable, by payment of such sum as the Lieutenant-Governor may fix with reference to the circumstances of such estate.

12. Whenever a division of the lands of any estate has been made by private arrangement of the proprietors thereof, and in accordance with such arrangement each proprietor is in possession of separate lands held in severalty as representing his interest in the estate, no such estate shall be brought under partition and no partition of such estate shall be made under this Act otherwise than on a joint petition presented under section one hundred and one or section one hundred and five by all the proprietors thereof, unless such partition shall have been ordered to be made by a Civil Court.

13. The Collector may refuse to admit an application for the formation of lands held in severalty into a separate estate, if in consequence of such lands being intermingled with those held by other proprietors the result of the partition would be to form out of a compact estate one or more estates consisting of scattered parcels of land, in such a way as, in the opinion of the Collector, to endanger the safety of the land revenue, and the Collector may at any time refuse to proceed with a partition which would have such a result.

But a partition may be allowed in such a case if the recorded proprietors shall agree to such a distribution of land as shall make the estates formed by the partition reasonably compact.

Nothing in this section shall be understood to prohibit the partition into separate estates of a parent estate which before such partition is not compact and consists only of scattered parcels of land.

14. No proprietor who has alienated any portion of his interest in an estate or in any specific lands of an estate, by private contract, with the condition that the transferee shall be liable in respect of the interest acquired by him to pay a specified amount or a specified share of the land revenue for which the estate is liable (such amount or share being other than the proportionate amount or the proportionate share for which such transferred interest if formed into a separate estate would be liable under the provisions of section six);

Interest alienated with special condition as to revenue liability.

and no proprietor who has derived his title from any proprietor who has made any alienation as aforesaid,

shall be entitled to claim a separation under this Act of the interest which he continues to hold in the estate;

and no such transferee as aforesaid, and no person deriving his title from such transferee, shall be entitled to claim a separation of the interest which has been so acquired;

Provided that a separation of such interests may be made, if the parties concerned agree to waive the conditions of the contract as regards the proportion of revenue for which the transferor and transferee or their representatives respectively are liable, and to hold the estates which may be allotted to them respectively by the partition, subject to the payment of such amount of land revenue as may be assessed upon them respectively by the revenue authorities under his Act.

15. Notwithstanding that a parent estate may have been declared to be under partition as provided in section thirty-one, any arrears of revenue accruing due on such estate before the date specified in the notice issued under section one hundred and twenty-three may be realized by sale of the parent estate as if such estate had not been declared to be under partition; and if such sale takes place the partition proceedings shall cease from the date thereof.

Arrears of revenue may be realized by sale of parent estate.

16. Nothing contained in the last preceding section shall be deemed to affect the provisions of sections 10, 11, 12, 13, or 14 of Act XI of 1859 (an Act to improve the law relating to sales of lands for arrears of revenue), or any provisions of any similar law for the time being in force in respect to the opening of separate accounts for different shares in an estate, and the protection afforded to such shares thereby:

Provided that if any share in any estate is sold for its own arrears of revenue while such estate is under partition in accordance with the provisions of this Act, such share shall be sold subject to the partition proceedings, which shall proceed as if no such sale had taken place; and the purchaser of the share sold may, from the date of such sale, exercise all the rights which the proprietor whose share he has purchased might have exercised, and shall be subject to all the liabilities to which such proprietor would have been subject, in respect of the partition proceedings.

Shares may be protected from liability for arrears under laws in force.

(an Act to improve the law relating to sales of lands for arrears of revenue), or any provisions of any similar law for the time being in force in respect to the opening of separate accounts for different shares in an estate, and the protection afforded to such shares thereby:

Provided that if any share in any estate is sold for its own arrears of revenue while such estate is under partition in accordance with the provisions of this Act, such share shall be sold subject to the partition proceedings, which shall proceed as if no such sale had taken place; and the purchaser of the share sold may, from the date of such sale, exercise all the rights which the proprietor whose share he has purchased might have exercised, and shall be subject to all the liabilities to which such proprietor would have been subject, in respect of the partition proceedings.

PART III.

OF THE APPLICATION FOR PARTITION; THE ADMISSION OF AN ESTATE TO PARTITION; AND THE DISCONTINUANCE OF THE PARTITION PROCEEDINGS AFTER SUCH ADMISSION.

17. All applications for partition shall be made to the Collector of the district on the revenue-roll of which the estate is borne, and shall be made in person or by duly authorized agent, on paper bearing such stamp as may be required by any law for the time being in force.

Application for partition to be made to Collector of the district.

18. The application shall be signed by the applicant, and shall supply the following information in regard to the parent estate, so far as the particulars are known to the applicant or can be ascertained by him:—

Application to be signed, and certain particulars specified.

- (a) name of the estate;
- (b) number under which the estate is borne on the revenue-roll, and the revenue demand for which it is liable;
- (c) number under which the estate is borne on the Collector's General Register of revenue-paying lands;
- (d) name and address of every proprietor, whether recorded or unrecorded;
- (e) the character and extent of the interest of which each proprietor is in possession;
- (f) a specification of any lands held by all or any of the proprietors of the parent estate in common with all or any of the proprietors of other estates, and of the rights of such proprietors respectively in such lands.

19. Subject to the provisions of section sixty-one, every application shall, if possible, be accompanied by a copy of the rent-roll of the estate, by a statement of the rents collected from such estate on behalf of the applicant during each of the three years immediately preceding such application, and by copies of any measurement papers of the estate which the applicant may have in his possession.

The said rent-roll, statement, and measurement papers shall be attested by the patwaris of the villages, if any, and every such application, rent-roll, and statement shall be presented, subscribed, and verified as provided in section fifty-two.

If the applicant is unable to produce a rent-roll or statement as above required, he shall state the reason of such inability, and the name and address of the person who has in his possession the information necessary for the preparation of such rent-roll and statement, and the Collector may, if he shall think fit, require such person to produce such rent-roll and statement.

20. If the application does not fulfil the requirements of the three last preceding sections, the Collector may reject such application or may order it to be amended.

Collector may reject application.

21. If, in the opinion of the Collector, the application fulfils the said requirements and there appears to be no objection to making the partition, the Collector shall publish a

Procedure of Collector on receipt of application.

notification of the application in the manner prescribed in section one hundred and thirty-four and shall also cause copies thereof to be posted up at the Court of the Judge of the district, at the court of every Munsif and Sub-divisional Officer within whose jurisdiction, and at every Police Station within the jurisdiction of which any lands appertaining to the estate are known to be situated, and shall invite any person claiming any proprietary right in the estate, who may object to the partition, to state his objection either in person or by duly authorized agent, on a day to be specified in the notification, not being less than thirty or more than sixty days from the date of the publication of the notification on the estate.

22. Notice of the application shall also be served in the manner prescribed by section one hundred and thirty-five on such of the recorded proprietors of the estate as shall not have joined in the application, and on any other proprietor who may have been named in the application.

23. If any objection be made to the partition by any person claiming a proprietary right as aforesaid on or before the day specified in the notification published under section twenty-one, or at any subsequent time if it shall seem fit to the Collector to admit such objection, and the Collector, on consideration of such objection, shall be of opinion that there is good and sufficient reason for rejecting the application, he may reject the same, and in that case shall record the grounds of such rejection.

24. If the objection raises any question of the extent of interest, or of right or title as between any applicant and any other person claiming to be a proprietor of the parent estate, and if it shall appear to the Collector that such question has not been already determined by a Court of competent jurisdiction, the Collector may hold such inquiry as he may deem necessary into the objection, and, if he be satisfied that the applicant is in possession of the extent of the interest for the separation of which he has applied, may, instead of rejecting the application as provided in the last preceding section,

(a) direct that the partition proceedings shall proceed for the purpose of forming and assigning to the applicant a separate estate in accordance with the extent of interest claimed by him in the parent estate; or

(b) direct that such proceedings be postponed for four months.

25. At the expiration of the said four months, the Collector shall resume the proceedings, unless the person who has made the objection, or some other person, shall have obtained an order from a Civil Court directing that such proceedings be stayed, or shall be able to show that a suit has been instituted before such Court to try some question, of such nature that the Collector shall think fit to stay the proceedings until the question shall have been finally decided, or until the proceedings in such Court in respect thereof shall have terminated.

26. No suit instituted in a Civil Court by any person claiming any right or title in the parent estate, after the lapse of four months from the issue of an order of the Collector under clauses (a) and (b) of section twenty-four, or after the lapse of four months from the issue of an order of the Collector under section thirty-one declaring the estate to be under partition, shall avail to stay or affect the progress of any proceedings which shall have been taken under this Act for the partition of an estate; and all rights which may be conferred on any person by the final decree in such suit shall be subject to such proceedings in the manner hereinafter provided.

27. Every decree passed in such suit after the parent estate shall have been declared to be under partition as provided in section thirty-one, but before the date specified in the notice under section one hundred and twenty-three, shall be made in recognition of the proceedings then in progress under this Act for the partition of such parent estate, and shall be framed in such manner that the provisions of such decree may be applied to, and may be carried out in reference to the separate estates which the Collector in his proceeding under section thirty-one shall have ordered to be formed out of the parent estate;

and if the effect of any such decree be to declare any person or body of persons entitled to any extent of interest in such parent estate in excess of the extent of interest which the Collector in the said proceeding has declared to be held by such person or body of persons, such decree shall specify, separately in respect of every proprietor or body of proprietors of whose interests the Collector has separately specified the extent in the said proceeding, the proportion of such excess which such person or body of persons is entitled to recover from every such proprietor or body of proprietors;

and every person or body of persons so declared entitled to recover any extent of interest from any such proprietor or body of proprietors shall, for the purposes of the partition proceedings, be deemed to have the same rights, and to be subject to the same liabilities, as a person who has acquired such extent of interest from such proprietor or body of proprietors by private purchase after the estate was brought under partition under section thirty-one, and on the date on which the decree was passed;

and such person or body of persons may apply, as in this Act provided, for the separation and assignment to him, or them, of the lands representing the extent of interest so acquired;

and such application shall be dealt with as provided in section thirty-two.

28. Every decree passed after the date specified in the notice under section one hundred and twenty-three, in a suit which was instituted as mentioned in section twenty-six, shall be made in recognition of the partition proceedings, and shall be framed in such manner as to give effect to such division of the parent estate into separate estates as shall have been made by the Collector, and not to disturb such division; and if the

Suit in Civil Court when not to affect proceedings taken under this Act.

Decree made while partition proceedings are in progress.

Notice to proprietors who have not joined therein.

In case of valid objection being made within time allowed, application may be refused.

Procedure when objection raises any question of title or right.

When Collector to resume proceedings.

Decree made after partition proceedings completed.

effect of any such decree shall be to declare any person or body of persons to have been entitled to any extent of interest in the parent estate in excess of the extent of interest which is represented by the separate estate assigned to such person or body of persons by the Collector in the partition proceedings, such decree shall specify, separately in respect of the proprietor or joint proprietors of every separate estate formed by the partition, the proportion of such excess of interest which such person or body of persons is entitled to recover from such proprietor or joint proprietors; and every person or body of persons so declared entitled to recover any extent of interest from the proprietor or joint proprietors of a separate estate shall be entitled to recover such extent of interest out of the separate estate which has been assigned to such proprietor or joint proprietors, and out of such separate estate only;

and every such decree as aforesaid shall be executed by placing the person or persons so declared entitled to recover, in the position of a recorded joint proprietor or recorded joint proprietors of such separate estate, holding the same as a joint undivided estate in common tenancy with the proprietor or joint proprietors to whom such separate estate was assigned by the Collector in the partition proceedings, the extent of the interest of the joint proprietors respectively in such estate being such as is declared in the aforesaid decree.

29. Subject to the provisions of section eleven, a Civil Court may at any time direct the Collector to assign to any person lands representing a specified interest in any estate or in any specified village or tract of land in an estate, to be held by such person as a separate estate, or to divide off from any estate any specified villages or lands, and to assign them to any person to be held as a separate estate, provided that an application for such partition and separation shall be presented by such person, as required by sections seventeen, eighteen, and nineteen; but no Civil Court shall in any case specify the amount of revenue for which any separate estate which it may direct to be formed under the provisions of this section shall be liable.

30. The Collector shall assess the land revenue on every such separate estate in accordance with the provisions of this Act, and no Civil Court shall direct the Collector to carry out at partition otherwise than in accordance with the provisions of this Act.

31. If no objection be made within the time allowed under section twenty-one to an application for partition, or when all objections have been disposed of, and if the Collector has no reason to believe that any obstacle exists to his making the partition as applied for, he shall direct that the application be admitted, and record a proceeding declaring the estate to be under partition, for the purpose of forming and assigning to the applicant a separate estate.

In such proceeding the Collector shall declare the extent of interest in the parent estate which

he finds to be held by the applicant, or joint applicants;

and, if more than one separate application for separation shall have been made and admitted, the extent of interest which he finds to be held by every separate applicant, or body of joint applicants, respectively;

and also the extent of interest which remains to any recorded proprietor, or to any number of recorded proprietors who are not applicants;

and shall order that lands proportionate to the interest so declared to be held by each applicant, or body of joint applicants, respectively, shall be formed into a separate estate, to be assigned to such applicant, or body of joint applicants;

and that lands proportionate to the interest so declared to remain to the recorded proprietor, or the number of recorded proprietors who are not applicants, shall be left forming a separate estate.

32. If at any time after the Collector has made an order for partition under the last preceding section, any recorded proprietor in the estate, other than the original applicant, shall apply for the separation of his share, the Collector may either order that the proceedings for effecting such separation shall be carried on simultaneously with those for separating the share of the original applicant, or if he consider that such a course would entail delay in the completion of the original proceedings, he may order that no action shall be taken on such subsequent application until after the proceedings for the separation of the original applicant's share shall have been completed.

In the latter case all or any of the rent-rolls, measurements, and other papers which were used in the separation of the original applicant's share, may be used, as far as they are applicable, in the partition for which subsequent application has been made.

33. The Collector may refer any application for partition to a Deputy Collector for the purpose of making any enquiries and doing anything required by this Part; provided that every order—

(a) rejecting an application under section twenty-three;

(b) directing, under section twenty-four, that the partition shall proceed, or shall be postponed;

(c) directing, under section thirty-one, that an application for partition be admitted, and declaring an estate to be under partition;

(d) made under the first clause of the last preceding section;

(e) appointing a Deputy Collector under the next succeeding section to carry out the partition; shall be passed by the Collector and not by any Deputy Collector.

34. As soon as the Collector has declared an estate to be under partition as provided in section thirty-one, he may appoint a Deputy Collector to carry out the partition and all or any of the proceedings necessary thereto.

35. If at any time after an order shall have been passed for making a partition all the recorded proprietors of the estate shall present a petition to the effect that they do not wish the partition to proceed, the Collector may, on the report of the Deputy Collector or otherwise, strike the partition case off the file, on payment by the proprietors of all costs and expenses incurred in and about such partition; and any such costs and expenses which shall not already have been levied as provided in section thirty-nine or section forty, shall be levied in proportion to the shares of the respective proprietors.

36. If at any time after an order shall have been passed for making a partition, it shall appear from information which was not before the Collector at the time the partition was ordered, or otherwise, that any sufficient reason exists, why the partition should not be proceeded with, the Commissioner may, on the report of the Collector or otherwise, after issuing a notice calling on the persons interested to show cause why the partition should not be struck off the file, and after considering any objections which may be made, order the partition case to be struck off the file; and in such case any costs and expenses of the partition which shall not already have been levied as provided in section thirty-nine or section forty shall be levied in proportion to the shares of the respective proprietors.

PART IV.

OF ESTABLISHMENTS FOR EFFECTING PARTITIONS AND OF THE COST THEREOF.

37. For the purposes of this Act, the Deputy Collector may, with the approval of the Collector, and subject to any rules made in that behalf by the Board, appoint such establishments as may be required for making the measurement and survey of lands, for ascertaining and recording the rates of rent, for making any other local enquiries, for the preparation of the papers and for other matters in each case; and the Collector may appoint such peshkars or other superior officers as may be required to test the work of the amins, and for the performance of similar duties; provided that the scale of remuneration of such officers, and the time for which they shall be employed, shall be sanctioned by the Commissioner.

38. In any district or division in which partitions may be so numerous or so extensive as to render necessary the appointment of special establishments in the office of the Collector or of the Commissioner, the Collector and the Commissioner may, with the sanction of the Board, appoint such establishments.

39. As soon as possible after an estate has been declared to be under partition as provided in section thirty-one, the cost of making the partition shall be estimated, and the amount shall be levied

from the proprietors in such instalments and at such times during the progress of the partition as may be fixed in accordance with any rules which the Board may make in that behalf.

If the amount first estimated is found insufficient, supplementary estimates may be made from time to time, and the required amount may be levied as above provided.

40. The cost shall be apportioned on the proprietors of each share in proportion to their shares; but whenever it shall appear to the Commissioner that the partition proceedings have been unnecessarily delayed, and the cost of the partition enhanced by obstacles vexatiously put in the way of their completion by one or more of the proprietors, or by want of due diligence on the part of one or more of the proprietors in carrying out any requisitions made upon him or them, the Commissioner may direct that such portion of the cost as he may think proper in excess of the amount proportionate to his or their share shall be levied from such proprietor or proprietors.

41. Whenever any local enquiry may be held by the Deputy Collector or any other officer, in consequence of an objection raised by any person to any record of measurements, rent-rolls, or other information which has been laid before the Deputy Collector, the Deputy Collector may declare the cost which has been incurred by such enquiry, and may direct that the entire cost so declared shall be paid by the person making the objection or by any one of the proprietors, or that such cost shall be paid in such proportions as he shall think fit, by the said person and the proprietors or any of them, or that such cost be deemed a part of the general cost of making a partition as prescribed in section thirty-nine.

42. Upon the completion of the partition, the Collector shall make an order declaring the total cost thereof. The account shall then be adjusted, either by returning to the proprietors any sums which they may have paid in excess of the total cost, or by levying from them in the manner provided in section one hundred and thirty-eight, if necessary, any sums remaining due.

43. Whenever it shall appear to the Lieutenant-Governor that in any district the work required to be done by Deputy Collectors in connection with partitions under this Act is so great that such work would, if concentrated in the hands of one or more Deputy Collectors, fully occupy the time of such one or more Deputy Collectors, the Lieutenant-Governor may make an order directing that the salary of such one or more Deputy Collectors, as the case may be, shall be recovered from the proprietors of estates under partition in such district as part of the cost of such partitions, and thereupon such charge as the Collector may think fit to make in respect of such salary shall, in addition to the items mentioned in the last preceding section, be deemed to be a portion of the costs of every partition.

For the purposes of this section the salary of every Deputy Collector shall be deemed to be the amount of salary which is drawn by a Deputy Collector of the lowest grade.

44. For the purposes of sections thirty-nine, forty, and forty-two, the costs of any partition shall be deemed to be

What are costs leviable from proprietors.

(a) the cost of any establishments entertained for the partition under section thirty-seven, or such amount as the Collector may think proper in respect of the services of any such establishments which are entertained for the purposes of making partitions in the district;

(b) all contingent expenses incurred in and about the partition, and

(c) such portion of the cost of any establishment entertained under section thirty-eight as the Collector may order.

45. Notwithstanding anything contained in the

Lieutenant-Governor may direct "Estates' Partition Fund" to be formed.

eight last preceding sections, the Lieutenant-Governor may direct that in any district a fund to be called the "Estates' Partition Fund" shall be formed, into which all sums levied from the proprietors of estates in respect of partitions of their estates shall be paid.

Whenever such a fund shall have been established in any district, all expenses of making partitions of estates in such district shall, except as hereinafter otherwise provided, be defrayed from such fund.

46. Whenever the Lieutenant-Governor shall

Procedure when Estates' Partition Fund formed in any district.

have ordered an "Estates' Partition Fund" to be formed in any district, the charges leviable from the proprietors of any estate under partition may be estimated and levied according to the estimate in each case as provided in sections thirty-nine and forty, subject to final adjustment, as provided in section forty-two; or they may be levied according to a general scale of fees to be fixed by the Board.

47. Such scale of fees shall be fixed as nearly as may be, so that the

Scale of fees.

receipts and expenditure of the said fund shall balance one another, and shall be revised from time to time by the Board for that purpose.

Such fees shall be levied from the proprietors in such instalments and at such times during the progress of the partition as may be fixed in accordance with any rules which the Board may make in that behalf, and the provisions of section forty shall be applicable to such fees.

48. An abstract of the Estates' Partition

Abstract of Estates' Partition Fund to be published.

Fund of each district made up to the end of each year shall be published in the *Calcutta Gazette*, and by being posted up at the office of the Collector of the district.

49. For the purposes of sections forty-five,

What costs of partition chargeable to Estates' Partition Fund.

forty-six, and forty-seven the expenses of making partitions in any district shall be deemed to be

(a) the cost of all establishments entertained in the district under section thirty-seven;

(b) all contingent expenses incurred in all partitions in the district;

(c) the cost of any special establishment appointed in the office of the Collector under section thirty-eight;

(d) such portion as the Commissioner may direct of the cost of any special establishment appointed in his office under section thirty-eight;

(e) the salary of any one or more Deputy Collectors which the Lieutenant-Governor may have ordered under section forty-three to be recovered from the proprietors of estates under partition.

50. Whenever any Civil Court shall make

Civil Court may in certain cases order parties to pay expenses incurred in dividing an estate.

a decree awarding or declaring any proprietary right in an estate, and shall require the Collector to make a partition of the estate, such Court may at the same time direct,

that the party or parties who may have withheld the right so decreed shall defray the whole of the expense which may be incurred in and about the partition, or the whole of the fees payable in respect of the partition under section forty-six,

or that the said expenses or fees shall be defrayed by all or any of the parties to the suit in which the decree was made in such proportions as the Court may, from a consideration of the particular circumstances of the case, deem equitable;

Copies of all orders which the Court may pass under this section shall be transmitted to the Collector for his guidance, together with the precept which the Court may issue to him, requiring him to divide the estate; and the Collector shall levy the said expenses and fees from the parties in the proportion ordered by such Court in the same manner and by the same means as if the levy of such expenses and fees had been ordered by the Collector.

PART V.

OF THE PARTITION PROCEEDINGS UP TO THE ADOPTION OF A RENT-ROLL AND MEASUREMENT PAPERS.

51. As soon as the Collector shall have

As soon as estate declared to be under partition, Deputy Collector shall cause notification to be published.

made an order under section thirty-one declaring an estate to be under partition, the Deputy Collector shall cause a notification to be published in the manner prescribed by section one hundred and thirty-four, and shall also cause copies thereof to be posted up at the Court of the Judge of the district in which any lands appertaining to the parent estate are known to be situated, and at the Court of every Munsif and of every Sub-divisional officer within the jurisdiction of whom, and at every Police station within the jurisdiction of which, any such lands are known to be situated, intimating his intention to proceed with the partition, and requiring all the proprietors of the estate to produce before a certain date, being not less than forty days from the date of such notification, either jointly or separately, copies of their rent-rolls and statements of the rents collected during each of the three years next preceding, and also copies of any measurement papers of the estate which may be in their possession.

A notice to the same effect shall also be served as provided in section one hundred and thirty-five on each proprietor of the parent estate.

The Deputy Collector may, on sufficient grounds for so doing being shown to his satisfaction, from time to time extend the period for producing any such return.

52. Every rent-roll, statement of rents collected, and measurement paper furnished to the Collector under this Act shall be presented by the person who is required to produce the same or by a duly authorized agent of such person who has a personal knowledge of the facts stated therein, and shall be subscribed and verified at the foot by such person or such agent in the manner following, or to the like effect:—

"I, A.B., do declare that this rent-roll (*statement, or measurement paper*) is correct to the best of my knowledge and belief."

If the rent-roll, statement or measurement paper shall contain any entry which the person making the verification shall know or believe to be false, or shall not believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

53. If any proprietor who is required to produce any rent-roll or statement by notice as aforesaid is unable to produce such rent roll or statement, he shall state to the Deputy Collector the cause thereof and the name and address of the person who has in his possession the information necessary for the preparation of such rent-roll and statement, and the Deputy Collector may, if he shall think fit, require such person to produce such rent-roll and statement.

54. The Deputy Collector may, if necessary, make, or may cause to be made, a measurement of all or any of the lands comprised in the estate, and may prepare or cause to be prepared a rent-roll, and may test or cause to be tested on the spot any rent-roll which has been produced as aforesaid, and may make or may cause to be made any local enquiry which he may consider necessary.

55. Before proceeding or deputing the amin to the spot, the Deputy Collector shall publish a notification in the manner prescribed by section one hundred and thirty-four requiring the several proprietors of the estate, their managers, and any other persons employed in the management of the land, or otherwise interested therein, to attend in person or by agent upon him or upon the amin who is deputed to make the measurement or enquiry, for the purpose of pointing out boundaries and of affording such assistance and information as may be required for the purposes of this Act.

56. The Deputy Collector, and any amin or other person who is specially authorized in that behalf by the Collector, may, by a notice served as provided in section one hundred and thirty-five, require any proprietor or other person whose attendance may be required, to attend before the Deputy Collector or amin who is making such measurement or enquiry, within a specified time at any place for any of the purposes aforesaid.

57. If any objection be made to a measurement, map, or rent-roll prepared by the amin, or if for any other reason it seems desirable, the Deputy Collector shall, as soon as possible after completion of the amin's work, himself test, or shall cause to be tested on the spot such measurement, map, and rent-roll, and may accept, amend, or reject the same, or any of them. If the Deputy Collector shall deem it necessary, he may cause the work or any portion thereof to be done again.

58. The Deputy Collector may examine any person on solemn affirmation, in regard to the papers produced before him, whether by the proprietors, by the amin, or otherwise, and shall allow the parties concerned to put any necessary questions to such person.

The Deputy Collector shall also allow any proprietor or other person interested to examine the papers so produced, and to take a copy of the same, and after such examination shall hear any objections which any of the persons interested may make in respect of such papers, and shall decide whether any, and (if any), which of the papers as they stand, or with such modifications as he may think necessary, shall be accepted as correct for the purposes of the partition.

59. If any proprietor who has been required to produce a rent-roll or statement under section fifty-one, fails to produce the same after the imposition on him of a fine under section one hundred and thirty-seven for thirty days, or fails to state to the Deputy Collector the name and address of any person under section fifty-three, the Deputy Collector may declare that the said proprietor shall, for the purposes of the partition, be bound by such rent-roll as the Deputy Collector may adopt as the basis of the partition as hereinafter provided, and after such declaration any officer exercising authority under this Act may refuse to entertain any objection which such proprietor may make to such rent-roll.

60. If any person who has been required to produce a rent-roll or statement under section fifty-three shall fail to produce the same after the imposition on him of a fine under section one hundred and thirty-seven for thirty days, the Deputy Collector may declare that the proprietor who may have stated the name of such person under section fifty-three shall, for the purposes of the partition, be bound by the rent-roll which the Deputy Collector may adopt for the basis of the partition as hereinafter provided, and after such declaration any officer exercising authority under this Act may refuse to entertain any objection which such proprietor may make to such rent-roll.

61. Notwithstanding anything contained in this Act, if it shall appear to the Deputy Collector that any measurements, maps, rent-rolls, or other papers relating to the estate which have been prepared otherwise than for the purposes of the partition, or otherwise than for the purposes of this Act, afford

information sufficiently trustworthy to enable him to effect the partition, the Deputy Collector may adopt such information and such papers either wholly or in part for the purposes of the partition, and may dispense with any rent-rolls, maps, or other papers for which he is authorized to call, or which an applicant is required to produce under this Act.

62. No proprietor or other person, who shall have failed to attend in person or by agent during the measurement as required by the notification published under section fifty-five, shall be entitled at any subsequent time to make any objection to such measurement, but the Collector may admit any objection made by such proprietor or person if he think fit, provided that any expense entailed by a local inquiry made in consequence of such subsequent objection shall be paid entirely by such proprietor or person.

63. When the Deputy Collector is finally satisfied that the papers before him, whether rent-rolls, measurement papers, maps, or other papers are sufficient and sufficiently correct to be accepted or adopted for the purposes of the partition, he shall make an order to that effect, and shall fix a day on which to determine the general arrangement of the partition, and shall publish a notification in the manner prescribed by section one hundred and thirty-four, calling on all the proprietors to be present on the day so fixed, such day being not less than thirty or more than sixty days after the publication of the notification in his office, and shall serve a notice to the same effect on each proprietor or his agent.

PART VI.

OF PARTITION BY AMICABLE ARRANGEMENT OR BY ARBITRATION.

64. On the date fixed under the last preceding section, if a petition to that effect signed by all the recorded proprietors shall have been presented, the Deputy Collector may allow such proprietors to make a private partition of the estate amongst themselves on the basis of the papers which have been accepted or adopted for the purposes of the partition by the Deputy Collector, or may refer the partition to be made by an arbitrator or arbitrators on such basis.

If the proprietors who have elected to make such private partition shall fail to make the same within such time as may be fixed by the Deputy Collector, the Deputy Collector may refer the partition to be made by an arbitrator or arbitrators, or may make the partition himself.

65. Whenever any partition shall have been referred to arbitration, the proceedings shall be conducted in accordance with the provisions of sections 313 to 325 (both inclusive) of Act VIII of 1859 (an Act for simplifying the procedure of the Court of Civil Judicature not established by Royal Charter) as far as those provisions are applicable, and except as herein otherwise expressly provided

66. The arbitrators shall deliver, within a time to be fixed by the Deputy Collector, which time may be further extended by him, a full and complete paper of partition, in such form as may be prescribed by the Board for partitions made by the Collector or Deputy Collector.

67. The arbitrators, on delivering the paper of partition as aforesaid, shall be entitled to reasonable fees for their services, the amount of which shall be fixed, with the approval of the Commissioner, by the officer making the reference to arbitration, and shall be considered to form part of the cost of making the partition.

68. Every partition made under the provisions of this Part by the parties or by arbitrators appointed by them, shall be subject to the approval of the Deputy Collector and to the confirmation of the Collector and the orders of the superior revenue authorities; provided that neither the Deputy Collector nor any other authority shall disallow any partition so made on any other ground than that of fraud, or that, in the opinion of the Deputy Collector or such other authority, the partition cannot be confirmed without endangering the safety of the land revenue.

69. Whenever a partition has been made under the provisions of this Part, the land revenue shall be assessed by the Collector on each separate estate into which the parent estate is divided by such partition in the manner prescribed by section six.

70. If the paper of partition be not delivered within the time fixed by the Deputy Collector, or within any further period to which the time may have been extended, the Deputy Collector may withdraw the case from arbitration and may make the partition himself.

PART VII.

OF THE PROCEDURE FROM THE DETERMINATION OF THE GENERAL ARRANGEMENT OF THE PARTITION BY THE DEPUTY COLLECTOR TO THE APPROVAL OF THE PARTITION BY THE COLLECTOR.

71. If no petition shall have been presented under section sixty-four, the Deputy Collector shall, on the date fixed under section sixty-three, or on any other date to which the hearing may have been postponed by a notice posted at the office of the Deputy Collector, consult orally each proprietor present, and endeavour, as far as possible, with the concurrence of the proprietors present, to settle a general arrangement of the partition in accordance with the requirements of this Act.

For this purpose he shall endeavour to obtain from each proprietor an acknowledgment of his acceptance of the rent-roll, map, and any other papers which have been adopted by the

Deputy Collector for the purposes of the partition, and shall briefly record the objections of any proprietor who still objects to accept such rent-roll, map, or other papers.

72. If, in consequence of any objections made before the Deputy Collector has settled the general arrangement of the partition as provided in the last preceding section, the Deputy Collector considers it necessary to make further inquiry, he may, by notice to the recorded proprietors, postpone the settlement of the general arrangement of the partition to a date being not less than fifteen days from the service of the notice on any proprietor.

73. If the objections on account of which the said settlement is postponed are such that the person making the same might have made them on an earlier day, the Deputy Collector may award to each proprietor who shall have attended in person or by agent in accordance with the notice, such sum, not exceeding sixteen rupees, as he shall think fit by way of compensation for such attendance.

The sum so awarded shall be paid by the person making the objections as aforesaid, and may be recovered from him in the manner provided by section one hundred and thirty-eight.

74. If the objections have already been enquired into and disposed of, or are such as not to render necessary any further inquiry and postponement, or when any objections which may require further enquiry have been disposed of, the Deputy Collector shall record an order to that effect, and after hearing what each proprietor present may urge, shall hold a proceeding determining the general arrangement of the partition and the mode in which the parent estate shall be divided, and, in a general way, the position of the lands which shall be assigned to each of the separate estates.

In determining the general arrangement of the partition, the Deputy Collector shall be guided by the rules which are laid down in Part VIII, and shall direct the partition to be made in the manner which, in his opinion, is on the whole most in accordance with such rules, and most equitable and most convenient to all parties concerned.

75. The general arrangement of the partition as determined under the last preceding section, shall be submitted for the sanction of the Collector, who shall by notice fix a date for the consideration of the same, not being less than fifteen days after the publication of the said notice in his office, and after hearing and disposing of any objection which may be preferred, shall pass such orders as he may think proper, setting aside, amending, or approving the general arrangement made by the Deputy Collector.

76. When the general arrangement has been approved by the Collector, the Deputy Collector shall proceed to fix the exact boundaries of each separate estate, after considering the wishes which the parties may express in respect thereof.

77. When the Deputy Collector shall have so determined the boundaries, he shall cause to be drawn up a paper of partition specifying in detail the villages and lands which he has included in each of the separate estates, the rental thereof, with any other assets of each separate estate, the name or names of the recorded proprietor or proprietors of each separate estate, any stipulations which may have been made regarding places of worship, tanks, or other matters as mentioned in Part VIII, and the amount of land revenue to be assessed on each separate estate; he shall also prepare a map showing the lands which fall within each separate estate and the boundaries thereof, unless the preparation of such map shall be dispensed with by special permission of the Collector.

78. The Deputy Collector shall submit the partition paper and map as aforesaid and all other papers of the partition to the Collector with a full report of the proceedings taken, the reasons which influenced the Deputy Collector in selecting the lands included in each separate estate, the nature of the accounts upon which the apportionment of the land revenue assessed thereon has been based, and all other particulars material to the case.

79. The Deputy Collector shall at the same time cause to be prepared a separate extract of the portion of the partition paper which relates to each separate estate,

and shall cause to be tendered to any recorded proprietor of a separate estate, or any authorized agent of such proprietor, who may be in attendance at the Deputy Collector's office, the extract which relates to such separate estate;

and the Deputy Collector shall publish a notice at his office calling upon every proprietor to whom or to whose agent an extract from the partition paper has not been tendered as above mentioned, to take out of the Deputy Collector's office the extract of the portion of the partition paper relating to his separate estate.

If the circumstances of the partition so require, an extract of the map prepared by the Deputy Collector, or a copy of such map, shall be annexed to every separate extract from the partition paper herein mentioned.

80. On receipt of the papers and report mentioned in section seventy-eight, the Collector shall cause a notification to be published in the manner prescribed by section one hundred and thirty-four fixing a date, not being less than six weeks from the date of the publication of such notification on the parent estate, on which he will proceed to take up the case, and to consider any representations and objections which may be preferred in respect of the partition made by the Deputy Collector, and calling on all parties concerned who may wish to do so, to inspect the papers at his office before such date, and to take copies of any such papers as they may require.

The Collector shall also cause a notice to the same effect to be served on each of the recorded proprietors.

81. On the date so fixed, or on any other date to which the hearing may have been postponed, the Collector shall take into consideration the papers as laid before him, and after calling for any further information which he may deem necessary, and disposing of any objections which shall be made to the proposed partition and allotment of land revenue, may approve the partition as made by the Deputy Collector with such amendments as he may think proper, or return it for amendment to the Deputy Collector who made it, or to another Deputy Collector, or make a fresh partition himself.

The Collector may return the said papers for amendment or enquiry as often as he may think fit.

82. No proprietor who shall have failed to appear before the Deputy Collector in person or by agent on any date fixed for the arrangement of the partition under section sixty-three or section seventy-two, and no proprietor who shall have failed so to appear before the Collector on any date fixed under either of the two last preceding sections, shall be entitled, at any subsequent time, to make any objection to the orders which may be passed on such dates respectively.

83. When the Collector approves the partition made by the Deputy Collector with amendments, he may cause a fresh partition paper and map to be prepared, or may cause the amendments made by him to be noted on the paper and map submitted by the Deputy Collector.

When the Collector makes a fresh partition himself, he shall cause a fresh partition paper and map to be prepared.

84. Whenever the Collector shall have approved a partition (whether with or without amendments), he shall cause a notice to be served on each of the recorded proprietors that the papers will be submitted at once for confirmation of the partition by the Commissioner, and that any appeals or objections must be presented to the Commissioner, or to the Collector for transmission to the Commissioner, within thirty days of the date of the service of the said notice, or, if the Collector has approved the partition with amendments, and the notice requires the proprietor to produce the extract of any partition in order that amendments may be noted thereon, or to take out a fresh extract from the partition paper, as provided in the next succeeding section, then within six weeks of such date.

85. Whenever the Collector shall have approved a partition with amendments, and shall, under section eighty-three, have caused such amendments to be noted on the partition paper and map submitted by the Deputy Collector, the notice to be served on each of the recorded proprietors under the last preceding section shall, in the case of every such proprietor whose separate estate is affected by such amendments, in addition to the particulars mentioned in the said section, require such proprietor to produce before the Collector, within fifteen

days of the service of such notice, the extract from the paper of partition which has been prepared, and any map relating to his separate estate which may have been prepared, under section seventy-nine, in order that the amendments made by the Collector in the partition may be noted thereon; and such amendments shall be noted thereon by the Collector accordingly, and such extract and map shall be returned to the proprietor who produced them.

Whenever the Collector shall have caused, under section eighty-three, a new partition paper and map to be prepared, he shall order separate extracts from the portions of the partition paper which relate to each separate estate, and maps, if necessary, to be prepared as required by section seventy-nine, and in such case the notice served under the last preceding section shall, in addition to the particulars mentioned in that section, declare the extracts and maps which were furnished or offered to proprietors under section seventy-nine to be cancelled, and shall require the recorded proprietors to take out of the Collector's office such extracts and maps relating to their respective separate estates.

86. As soon as practicable after the issue of the notice under section eighty-four the Collector shall forward to the Commissioner all papers relating to the partition as approved or as made by the Collector.

PART VIII.

OF THE GENERAL PRINCIPLES ON WHICH PARTITIONS SHALL BE MADE.

Rules applicable to the partition of lands which are held by the proprietors in common tenancy.

87. Each separate estate shall be made as compact as is compatible with the primary object of making an equitable partition among the proprietors, and with the other provisions of this Part, but no partition made or approved by a Collector shall be set aside on the ground only that the separate estates are not compact.

88. In selecting the villages or lands to be assigned to each separate estate formed out of a parent estate which has been held in common tenancy, the Collector shall take into consideration the advantages or disadvantages arising from situation; the vicinity of roads, railways, navigable rivers, or canals; the nature and quality of the soil and produce; the quantity of cultivable and uncultivable waste land; the facilities for irrigation; the state of the embankments and water-courses; liability to accretion and diluvion, and any other circumstances affecting the value of the lands.

89. If a dwelling-house belonging to one proprietor is situated on any land which it may be necessary to include in the separate estate of another proprietor, the owner of such

Procedure of Collector thereupon.

Proprietor when not entitled to make subsequent objection.

Collector may cause a fresh partition paper and map to be prepared.

Procedure when Collector approves of a partition without amendment.

Procedure when Collector approves partition paper with amendments.

Papers to be forwarded to Commissioner.

Estate formed in course of partition to be as compact as possible.

Circumstances to be considered in making partitions.

Rule when dwelling-house belonging to one proprietor is situated on ground to be allotted to another proprietor.

house may retain occupation thereof with the offices, buildings, and grounds immediately attached thereto, upon agreeing to pay rent for the land occupied by such dwelling-house, offices, buildings, and grounds to the proprietor of the separate estate in which such land is included.

The limits of the land so occupied and the rent to be paid for it in perpetuity shall be fixed by the Deputy Collector, and shall be stated in the paper of partition.

In every such case a defined pathway shall, as far as possible, be secured to the owner of the house, leading from his house to some portion of the separate estate allotted to him.

90. Whenever the Deputy Collector shall

Rule contained in last preceding section may be applied to gardens, orchards, &c.

think fit, he may apply the rule contained in the last preceding section to gardens, to orchards of trees, to land planted with bamboos, and to any other lands which in his opinion are of special value to the proprietor in whose occupation they are found to be, in consequence of improvements made by such proprietor or of the particular use to which such lands are put.

91. The rent fixed in perpetuity on any

Calculation of rental.

land by the Deputy Collector under either of the two last preceding sections shall be considered to be the rental of such land for the purposes of the partition.

92. Whenever the dwelling-house of one pro-

Rent may be redeemed.

prietor, with the offices, buildings, and grounds immediately attached thereto, shall have been included in the separate estate of another proprietor, and the annual rent to be paid in perpetuity in respect of the land occupied thereby shall have been fixed by the Deputy Collector and stated in the paper of partition, the proprietor whose dwelling-house, offices, buildings, and grounds have been included as aforesaid may apply to the Deputy Collector for permission to redeem the annual rent so fixed, and the Deputy Collector shall give such permission, unless he shall be of opinion that such redemption would endanger the safety of the land revenue for the payment of which the separate estate in which such dwelling-house, offices, buildings, and grounds have been included will be liable.

93. If the Deputy Collector shall see no

Deputy Collector to certify amount payable in redemption of rent.

such reason to refuse his permission to the redemption being made, he shall certify the amount payable by such proprietor in redemption of such annual rent; and such amount shall be calculated and fixed by the Deputy Collector at ten per centum above the sum which would be required to purchase, at the market prices then prevailing, so much stock of the Government loan which was last issued as would yield an annual amount of interest equal to the annual land rent fixed by the Deputy Collector under section eighty-nine.

94. The proprietor desiring to redeem the

But not after possession of separate estate has been given.

rent as aforesaid, may pay to the Deputy Collector the amount so certified at any time before possession is given to the several proprietors of the separate estates allotted to each, as provided in section one hundred and twenty-three, but not after such possession has been given.

95. On receipt of such payment, the Deputy

Notice of payment to be given; and land to be held rent-free.

Collector shall give notice to the proprietor in whose separate estate such land is situated that such payment has been made, and that the sum will be paid to him or to his authorized agent on application; and that from the date on which possession as aforesaid may be given, the proprietor who has redeemed the rent of such land will be entitled to hold such land as a rent-free tenure secured against the proprietor of the estate and against any auction purchaser at a sale for arrears of revenue, including the Government; and from such date the lands shall be so held as a rent-free tenure.

96. The Deputy Collector shall at the same

Collector to register rent-free tenure.

time also give notice to the Collector of the district of the creation of such tenure; and the Collector of the district shall thereupon cause such tenure to be specially registered in the manner provided by section 42 of Act XI of 1859, or by any similar law for the time being in force.

97. When two or more of the separate estates

Lots may be drawn for equal shares.

shall consist of the same portions of the parent estate, the Deputy Collector may, if he thinks proper, direct the parties entitled thereto respectively to draw lots in his presence for the equal separate estates which have been formed by assignment of lands, unless the recorded proprietors of the equal shares shall agree among themselves as to the allotment of the equal separate estates and shall present a petition to that effect; or unless for any other reason the Deputy Collector shall, with the sanction of the Collector, think proper to assign the equal separate estates to the proprietors of the equal shares without causing lots to be drawn.

98. When the aggregate of two or more

Order and method of drawing lots when aggregate of two or more shares equals one other share.

shares equals one other share or equals the aggregate of two or more other shares, the Deputy Collector, with the sanction of the Collector, may cause such aggregate shares to be treated as one share for the purpose of determining by lots as aforesaid which portion of the parent estate shall be assigned to each proprietor as his separate estate;

and may decide which shares shall be formed into one aggregate share for the purpose of causing such lots to be drawn;

and may cause lots to be drawn in like manner as often as he shall think proper for such purpose.

And after lots shall have been drawn once (or more than once if necessary) as aforesaid, the Deputy Collector shall proceed to divide the portion of the parent estate which has fallen by lot to each aggregate share, among the proprietors of the different shares which were formed into such aggregate share for the purpose of drawing lots, and shall assign to every such proprietor his separate estate within such portion in such position as the Deputy Collector may think proper.

Provided that lots shall in no case be drawn until after full opportunity shall have been given to the proprietors to advance their objections in respect of the papers accepted as the basis of the partition and in respect of the assets of the different lands as stated in such papers, and until any such objections which may have been made shall have been disposed of.

Illustrations.

I.—The partition of a parent estate is being made into the following shares:—

8 annas.
4 annas.
3 annas.
1 anna.

For the purposes of drawing lots, the 4 annas, 3 annas, and 1 anna share may be taken together, and considered to be an aggregate 8 annas share.

The Deputy Collector will divide the parent estate into two halves of equal value; and will then cause lots to be drawn, in order to determine which of the two halves shall be assigned to the proprietor of the integral 8 annas share, and which shall be divided among the proprietors of the 4 annas, 3 annas, and 1 anna shares.

Subsequently, if necessary, the Deputy Collector may again cause lots to be drawn by the proprietor of the 4 annas share on the one hand, and the proprietors of the aggregate share made up by taking together the 3 annas share and the 1 anna share.

II.—The partition is being made of a parent estate into the following shares:—

6 annas.
4 annas.
3 annas.
2 annas.
1 anna.

Two tracts in the estate may first be marked off, the value of each being equivalent to a 6 annas share, and then, for the purpose of drawing lots in respect of the assignment of these two tracts, the 4 annas share and the 2 annas share may be taken together as an aggregate 6 annas share, and lots may be drawn between the proprietor of the aggregate 6 annas share so formed on the one hand, and the proprietor of the integral 6 annas share on the other.

One of the two 6 annas tracts having thus been finally assigned to the proprietor of the integral 6 annas share, the Deputy Collector will proceed to assign the rest of the estate among the remaining sharers, and he may again, for the purpose of causing lots to be drawn mark off two tracts the value of each of which shall be equivalent to 6 annas of the parent estate, and may cause lots to be drawn for these two tracts between the proprietors of the 4 annas share and the 1 anna share taken together as an aggregate 5 annas share on the one hand, and the proprietors of the 3 annas share and the 2 annas share taken together as another 5 annas share on the other.

Finally, their separate estates will be assigned to the proprietor of the 4 annas share and of the 1 anna share respectively, within the tract which fell to them jointly by lot; and their separate estates will be assigned to the proprietors of the 3 annas share and of the 2 annas share respectively within the tract which fell to them jointly by lot.

99. The Deputy Collector may, by a notice

Deputy Collector may require proprietors to attend or appoint agent for the purpose of drawing lots.

served as provided in section one hundred and thirty-five, require any proprietor in respect of whose share lots

are to be drawn as provided in either of the two last preceding sections, to attend at the office of the Deputy Collector in person or by authorized agent at a time to be fixed by the Deputy Collector for the purpose of drawing lots;

and may similarly require the proprietors of any shares which he may have ordered to be formed into an aggregate share for the purpose of drawing lots, jointly to appoint an agent to draw lots on their joint behalf; and if at the time fixed for drawing such lots such proprietors have failed to agree to any such joint appointment, or shall fail to cause the attendance of an agent authorized to act jointly for all such proprietors, all such proprietors shall be deemed to have failed to comply with the Deputy Collector's requisition.

100. Whenever any proprietor or proprietors shall have failed to comply with a requisition of the Deputy Collector under the last preceding section, the Deputy Collector may appoint a person to draw lots on behalf of such proprietor or proprietors.

In default Deputy Collector may appoint a person to draw lots.

Rules applicable to the formation into separate estates of lands which are held by proprietors in severalty.

101. Whenever in any parent estate a division of the lands thereof has been made by private arrangement of the proprietors of such estate, and in accordance

Joint petition may be presented for partition according to private division.

with such arrangement each proprietor is in possession of separate lands held in severalty representing his interest in such parent estate, the joint application presented to the Collector by all the recorded proprietors of such estate as required by section twelve may be to the effect that a partition of such estate be made by assigning to each proprietor or to two or more proprietors jointly as his or their separate estate, the lands of which they are in separate possession in accordance with such arrangement, and also that each separate estate so formed be made liable for such portion of the entire land revenue of the parent estate, as was paid by the proprietor or proprietors thereof under the private arrangement aforesaid.

102. The Deputy Collector who is appointed

Partition according to private division to be referred to Collector.

to carry out the partition in accordance with such application, shall satisfy himself

that the assets of each separate estate which it is proposed to form are sufficient to secure the payment of the annual amount of land revenue for which it is proposed to make such separate estate liable, and if the Deputy Collector be satisfied that in this respect, and with reference to all the circumstances of the case, that the partition of the lands and the assessment of the revenue thereon may be made in the manner proposed without endangering the safety of the revenue, the Deputy Collector shall submit the case with his opinion thereon, and the reasons on which such opinion is founded, to the Collector, who may admit or reject the said application.

103. If the Collector admits the said application, such admission shall

Effect of Collector's approval.

be deemed to be the Collector's approval of the

general arrangement of the partition as provided in section seventy-five, and the Deputy Collector shall proceed to complete the partition accordingly.

104. If the Deputy Collector, who is appointed

Such partition may be refused.

to carry out the partition in accordance with a joint application under section

one hundred and one, is not satisfied that the partition of the lands and the assessment of the revenue payable thereon can be made in the manner proposed without endangering the safety of the public revenue, or if the Collector rejects the application for such partition, the Deputy Collector shall refuse to make the same.

105. Whenever the proprietors of an estate

Joint petition may be presented for partition of land in accordance with private division with proportional redistribution of public revenue.

are, in accordance with a private arrangement as aforesaid, respectively in possession of separate lands held in severalty as representing their respective interests in the estate, the joint application presented to the Collector by all the recorded proprietors of the estate as required by section twelve, may be to the effect that a partition of such estate be made by assigning to each proprietor, or to two or more proprietors jointly, as his or their separate estate, the lands of which they are in possession in accordance with such arrangement, and that the land revenue for which the parent estate is liable may be apportioned among the separate estates so formed in accordance with the provisions of section six.

A joint application under this section may be made notwithstanding that a joint application under section one hundred and one has been refused in respect of the same estate.

106. Whenever the Deputy Collector who is

Lands of which each proprietor is in possession to be allotted to him.

appointed to carry out a partition, shall find that in accordance with a private arrangement made by the proprietors of an estate, the proprietors respectively, or any of the proprietors, are in possession of separate lands held in severalty as representing portions only of their respective interests in the parent estate, while other lands of the parent estate are held in common tenancy between such proprietors, a joint application as mentioned in section twelve shall not be necessary to authorize the Collector to make a partition of the estate, but the Deputy Collector shall allot to the separate estate of each proprietor the lands of which such proprietor is found to be in possession in severalty, in accordance with such private arrangement.

Lands held in the occupation of the several proprietors of an estate as sir, khamar, or nij-jote, or under any other similar denomination, shall not be deemed to be lands held in severalty as representing portions of their respective interests in the parent estate within the meaning of this section, which applied only to cases in which there has been a *bond fide* division, by private arrangement among the proprietors, of lands held by tenants.

107. Notwithstanding anything contained in

Collector may cause transfer of lands agreed to by parties.

the last preceding section, the Collector may cause any transfer of lands agreed to by the parties to be made from the possession of one proprietor to that of another.

Rule applicable both to lands held in common tenancy and to lands held in severalty.

108. Places of worship, burning grounds, and

Rule as to places of worship.

burial grounds which have been held in common previous to the partition of an estate, and lands of which the proceeds have been assigned by the proprietors jointly for religious, charitable, or public purposes, shall continue to be held in common, unless the proprietors shall otherwise agree amongst themselves, in which case they shall state in writing the agreement into which they have entered, and the Deputy Collector

shall enter a note of the agreement in the paper of partition.

109. Tanks, wells, water-courses, and embank-

Rule as to tanks, wells, water-courses, and embankments.

ments shall be considered as attached to the land for the benefit of which they were originally made.

In cases in which, from the extent, situation, or construction of such works, it shall be found necessary that they should remain the joint property of the proprietors of two or more of the separate estates, the paper of partition shall specify, as far as the circumstances may admit, the extent to which the proprietors of each of such estates may make use of the same, and the proportion of the charges for repairs to be borne by them respectively.

110. Whenever the Deputy Collector shall

Lands held rent-free not to be divided.

find in the parent estate lands which are actually held rent-free (whether the proprietors of the estate do or do not claim a right to receive rent from such lands), the Deputy Collector shall make no division or assignment of such lands among the separate estates, but shall specify in the partition papers and proceedings that such lands are left appertaining jointly to all the separate estates which are formed out of the parent estate, in the proportion which each separate estate bears to the parent estate.

Provided that such lands or any of them may be allotted among the different separate estates with the consent of all the recorded proprietors of the parent estate, but not otherwise.

111. Whenever the Deputy Collector shall

Rule as to permanent intermediate tenures.

find in the parent estate any lands which are held at a fixed rent on a *patni* or other permanent intermediate tenure falling within Exception 2 or Exception 3 of section seven, the Deputy Collector may either

(1) assign the lands which are held on such tenure and the assets thereof entirely to one or more of the separate estates, the rental being calculated as provided in Exception 2 or in Exception 3 (as the case may be) of section seven; or

(2) leave such lands unassigned to any separate estate, and specify in the partition paper and proceedings that the lands are left appertaining jointly to all the separate estates which are formed out of the parent estate in the proportion which each separate estate bears to the parent estate. In the event of such lands being so left undivided, the Deputy Collector shall assign to each separate estate such share of the rental of the tenure as shall bear the same proportion to the entire rental of the tenure, as the separate estate bears to the parent estate.

In dealing with a tenure under this section, the Deputy Collector shall take into consideration the extent of the lands comprised in the tenure, and all other circumstances of the case.

112. Whenever any lands are held in common

Lands held in common between the proprietors of two or more estates how to be dealt with.

between the proprietors of two or more estates, one of which is under partition in accordance with the provisions of this Act, the Deputy Collector shall first allot to the estate under partition a portion of such common lands of which the assets are in proportion to the interest which

the proprietors of such estate hold in the said common lands; and all the provisions of this Act in respect of the allotment between the shareholders in one estate, of lands which are held jointly by such shareholders, shall, as far as possible, apply to the allotment of the proportionate share of such common lands to the estate under partition;

and, in respect of the service of notices, hearing of objections, and all other procedure in view to such allotment, the proprietors of the estate under partition, and the proprietors of all other estates who have an interest in the said common lands, shall be deemed to be joint proprietors of a parent estate consisting only of the lands so held in common.

Provided that all expenses of any division of lands so held in common between the proprietors of two or more estates shall be deemed to be expenses of making the partition of the estate which is under partition, and shall be leviable as provided by this Act from the proprietors of such estate, and the proprietors of any other estate having an interest in such lands shall not be required to bear any portion of such expenses.

113. Notwithstanding anything contained in the last preceding section, if it shall appear to the Commissioner, on the report of the Collector or otherwise, that the proceedings for such division have been unnecessarily delayed, and the cost of such division enhanced by obstacles vexatiously put in the way of the completion of such division by any proprietor of any estate other than that under partition, or by want of due diligence on the part of any such proprietor in carrying out any requisitions made upon him, the Commissioner may direct that such sum as he shall think fit shall be levied from every such proprietor who is responsible for such delay or additional cost, and every sum so levied shall be taken in diminution of the amount payable by the proprietors of the estate under partition as costs of such partition.

114. The allotment to the estate under partition of the proportionate share of the lands so held in common shall be submitted for the approval of the Collector, who may confirm, amend, or reject the same, and in the case of rejection, may make or direct to be made another allotment.

115. As soon as the allotment to the estate under partition of a proportionate share of the said lands shall have been approved by the Collector, the lands so allotted shall be dealt with in every respect as if they were held in common tenancy by such of the proprietors of the estate under partition as were found to hold interests in the common lands.

116. If a dispute or doubt shall be found to exist as to whether any lands form part of the parent estate, the Deputy Collector shall enquire into the fact of possession, and shall report his conclusions, with the reasons thereof, to the Collector; whereupon the Collector may (whether the possession of

disputed lands is with the proprietors of the parent estate or otherwise) order that the partition be struck off the file, and in that case no application for a partition of the said estate shall be admitted until the applicant can show that the dispute or doubt has been decided by a court of competent jurisdiction, or has been amicably settled;

or, if the Collector shall find that possession of the disputed lands is with the proprietors of the parent estate, and if it shall appear to him that the claim of the other parties to the right in such lands is untenable, he may order that the partition shall proceed, and that the disputed lands be treated as part of the estate under partition.

Provided that no partition shall be made under this section, if such partition would involve the assignment to any separate estate of such a quantity of the disputed land that the removal of such land from such estate would, in the opinion of the Collector, endanger the safety of the land revenue for which such estate would be liable after the partition.

117. If, after a partition has been completed in accordance with an order passed by the Collector under clause three of the last preceding section, the proprietor of any separate estate shall be dispossessed by a decree of a court of competent jurisdiction of any lands which may have been assigned to his estate by the partition, such proprietor shall not be entitled to claim any modification of the partition (which shall hold good), but shall be entitled to recover from the proprietors of the other separate estates formed by the partition such compensation as may be fair and equitable having regard to the reduction in the proportionate value of his separate estate which is caused by such dispossession;

and such compensation may be recovered in a court of competent jurisdiction from the proprietors of those separate estates on which a proportionate share of the total loss caused by the order of dispossession does not fall.

PART IX.

OF THE PROCEDURE BEFORE THE COMMISSIONER UP TO THE COMPLETION OF THE PARTITION.

118. If no appeal or objection shall be presented within the time allowed by section eighty-four, the Commissioner may proceed to consider the case without issue of any notice, and may confirm the partition made by the Collector.

119. If it shall appear to the Commissioner that the proceedings of the Collector should be amended, or if a petition of appeal or an objection shall have been presented within the time allowed by section eighty-four, the Commissioner shall fix a day for hearing and disposing of the case, and shall cause a notification of the same to be published and a notice of the same to be posted up in his own office.

120. On the day so fixed, which shall not be less than thirty days after the publication of the said notification at the office

of the Collector, or on any subsequent day to which the hearing of the case may extend, or on any subsequent day to which the hearing may have been postponed by a notice published in his own office, the Commissioner shall, after hearing and disposing of all objections, and calling for any further information which may be necessary, either confirm the partition as made by the Collector or amend the same, or return the papers of the partition to the Collector for any changes the Commissioner may think proper to be made.

If the partition is returned to the Collector for amendment, the Collector shall proceed to make the said amendments or to cause them to be made in the same manner as if he had himself passed such orders on a partition submitted to him for approval by a Deputy Collector.

121. The Commissioner may, before confirming a partition, return the papers for amendment or inquiry as often as he shall think fit, and as often as he shall so return them the procedure prescribed in the three last preceding sections shall be followed.

122. After the expiration of not less than sixty days from the date of the order of the Commissioner confirming a partition, or, if an appeal has been preferred to the Board, or if any proceedings in respect of the partition be pending before the Board, then on receipt of the final order of the Board determining that the partition as sanctioned by the Commissioner shall not be disturbed, the Collector shall cause to be published in his office, and in some conspicuous place in each of the estates separately constituted by such order, a notice that the partition has been finally confirmed as it was sanctioned by the Commissioner, or with any amendments or alterations, as the case may be.

If the partition as finally sanctioned involves any amendments which may conveniently be made on the extracts of the partition paper and on any maps which have been prepared and delivered or offered by notice to the recorded proprietors as required by section seventy-nine or section eighty-five, the Collector shall cause a notice to be served on every recorded proprietor whose estate is affected by such amendments requiring him to produce such extracts and maps in order that such amendments may be noted on them;

and if the alterations made in the partition as finally sanctioned be such as to make it desirable to prepare fresh extracts and maps as aforesaid, the Collector shall cause such fresh extracts and maps to be prepared; and shall cause a notice to be served on each proprietor declaring the extract and map which was furnished or offered to him under section seventy-nine or section eighty-five, as the case may be, to be cancelled, and requiring him to take out of the Collector's office the fresh extract and map which have been prepared.

123. The Collector shall then proceed to give the several proprietors possession of the separate estates allotted to each, and, if necessary, may require the assistance of the Magistrate in giving such possession; and shall cause to be served on every recorded

proprietor of a separate estate a notice informing him that from the date specified in such notice, the separate estate assigned to him (as described in the extract from the partition paper prepared and delivered or offered to him under section seventy-nine, section eighty-five, or the last preceding section, as the case may be) will be deemed to be separated from the parent estate, and to be separately liable for the amount of land revenue specified in such notice, and calling upon him to enter into a separate engagement for the payment of such revenue.

124. The date specified in such notice shall not be more than three months after the proprietors have been put in possession of their respective separate estates as herein provided.

125. From the date specified in such notice, each separate estate shall be borne on the revenue roll and General Register of the Collector as a distinct estate separately liable for the amount of land revenue assessed upon it under this Act; and shall be so liable, whether the proprietor have executed an agreement for the payment of the amount of land revenue so assessed upon the said estate, or whether he shall have failed to execute such agreement.

126. The Collector may direct the construction of such boundary marks as he may think proper to distinguish the lands of each separate estate, and the cost of such boundary marks shall be deemed to be expenses of the partition.

Boundary marks erected under this Act shall be assigned to zemindars, or to zemindars jointly with tenure-holders, for preservation, as provided in the second clause of section 29 of "The Bengal Survey Act, 1875," and after they have been so assigned the provisions of sections 19, 20, and 52 to 57 (both inclusive) of the said Act shall apply to such boundary marks.

PART X.

MISCELLANEOUS.

127. The Deputy Collector, with the consent of all the parties concerned, may refer to arbitration any point arising in the course of a partition; and the provisions of sections sixty-five and sixty-seven shall, as far as possible, be applicable to such references.

128. If any proprietor of an estate held in common tenancy and brought under partition in accordance with the provisions of this Act shall have given his share or a portion of it in patni or other tenure or lease, such tenure or lease shall hold good, as regards the lands finally allotted to the share of the lessor, and only as to such land.

Illustrations.

I.—A, the proprietor of a quarter share in a joint undivided estate held in common tenancy, gives to B a patni tenure of the whole of his interest in the estate, entitling B, as long as such estate is held in common

tenancy, to collect one-fourth of the rent payable by every ryot on the estate;

Partition of the said estate is made under this Act, and certain specific lands are assigned to A as his separate estate;

B will become patnidar of the entire separate estate which has been assigned to A, and will be entitled to collect the whole of the rents from the ryots on that estate.

II.—A, the proprietor of a quarter share in a joint undivided estate held in common tenancy, gives to B a patni tenure of one-half of his share in the estate, entitling B, as long as such estate is held in common tenancy, to collect one-eighth of the rent payable by every ryot on the estate;

Partition of the estate is made under the Act, and certain specific lands are assigned to A as his separate estate;

B will become patnidar of one-half of A's separate estate, and will hold his patni in common tenancy with the half of A's interest which A has not given in patni so that B will be entitled to collect one-half of the rent payable by every ryot on A's estate, and A will be entitled to collect the other half.

129. If two or more estates shall come into the possession of one proprietor or of the same body of proprietors, such proprietor or body of proprietors, after being recorded as proprietors, may apply to have such estates united, and to hold them as a single estate.

130. Such application shall be made in writing to the Collector, and the Collector shall, not less than thirty days after the issue of a notification of such application (provided he sec no objection), comply with the same, and cause the necessary entries to be made in the records of his office, and shall report the case to the Commissioner.

131. Whenever any separate estate created under this Act shall fall in arrear so as to require a sale of the land for the discharge of the arrear at any period within twelve years of the date of the confirmation of the partition, the Collector shall, if possible, ascertain the cause of the estate having fallen into arrear, and shall enquire whether such arrear has been caused by any fraudulent or erroneous allotment of the assessment or assignment of lands at the time of the partition, and shall make a report upon the case to the Commissioner for such action as the Commissioner may think proper.

132. If it shall be proved to the satisfaction of the Lieutenant-Governor at any time within twelve years from the date of the final confirmation of a partition by the Commissioner or by the Board, as the case may be, that through any fraud or error at the time of making the partition the assets of the lands assigned to any separate estate were not in proportion to the amount of land revenue for which such estate was made liable, or that the amount of land revenue assessed on any separate estate was not in proportion to the assets of the lands assigned to such estate, the Lieutenant-Governor may order a new allotment of the land revenue upon the separate estates in accordance with the principles prescribed in this Act, on an estimate of the assets of each such estate as they stood at the time of the partition, such estimate

being made on such evidence and information as may be procurable respecting the same.

133. Whenever the Lieutenant-Governor shall pass an order for the re-allotment of the land revenue on any separate estate under the last preceding section, the Lieutenant-Governor may direct that the proprietors whose estates are found to have been under-assessed shall, for each year during which they have held possession of the separate estates, be required to pay to the recorded proprietors of the estates which have been over-assessed, a sum equal to the annual amount in which the latter shall be found to have been over-assessed, and in default of payment the amount shall be leviable as provided in section one hundred and thirty-eight.

No order passed by the Lieutenant-Governor under this section shall be liable to be contested in any court.

134. Every notification required to be published in and by this Act shall, unless it is otherwise specially directed, be published by posting up copies of the same at the office of the Collector, and of the Deputy Collector who is making or has made the partition, at the māl cutcherry, or māl cutcherries (if any) of the proprietors of the parent estate, and at one or more of the principal villages on the said estate.

135. Every notice in and by this Act required to be served on any person may be served—

- (1) by delivering the same to the person to whom it is directed, or, on failure of such service, by posting the same on some conspicuous part of the house in which the said person usually resides, or by delivering the said notice to a general agent of the person to whom such notice is directed, or to any person who has been appointed in that behalf, or who has been appointed an agent of the person to whom the notice is directed for the general purposes of any partition under this Act; or
- (2) by sending a registered letter containing such notice directed to the said person at his usual place of abode or to the place where he may be known to be residing; or
- (3) by posting a copy of the notice at any māl cutcherry of the person to whom the notice is directed; or, if no such māl cutcherry be found, and if the notice cannot be served in any of the other modes mentioned in this section, on some conspicuous place on the estate to which such notice relates.

In all cases where two or more persons are joint applicants for the separation of an estate to be held by them jointly as a separate estate, service of notice under this section on any one such joint applicant shall be deemed to be good and sufficient service on each and all of such joint applicants.

136. Provided the directions of this Act be in substance and effect complied with, no proceedings under this Act shall be affected by reason of any mistake or by reason of any other informality, unless any person has suffered, or is in danger of suffering, material injury in consequence of such mistake or informality;

No proceedings under this Act to be affected by any mistake or misdescription.

and no proceedings under this Act shall be affected by reason of the omission to issue any notification required by this Act, or to serve any notice on any person whose name is not recorded on the Collector's registers as proprietor of the estate in respect of which the notice is required to be served.

137. If any proprietor or other person shall fail to comply, within the time fixed by a notice served on him as by this Act provided, with any requisition made upon him under this Act by the Collector or Deputy Collector, the Collector or Deputy Collector may impose upon him such daily fine as he may think fit, not exceeding fifty rupees;

and such fine shall be payable daily until the requisition is complied with,

and the Collector or Deputy Collector may proceed from time to time to levy the amount which has become due in respect of any such fine, notwithstanding that an appeal against the order imposing such fine may be pending;

Provided that whenever the amount levied under any such order shall have exceeded five hundred rupees, the Collector shall report the case specially to the Commissioner, and no further levy in respect of such fine shall be made otherwise than by authority of the Commissioner.

138. Except as herein expressly otherwise provided, all fees, fines, costs, and other sums ordered to be paid by any person under this Act, shall be deemed to be demands under section 1 of Bengal Act VII of 1868 (an Act to make further provision for the recovery of arrears of land revenue and public demands recoverable as arrears of land revenue), and shall be leviable as such.

139. For the purpose of any enquiry under this Act, the Collector and Deputy Collector shall, in addition to every power conferred specially by this Act, have power to summon and enforce the attendance of witnesses, to examine witnesses, and to compel the production of documents by the same means (as far as may be), and in the same manner as is provided in the case of a Court under the Code of Civil Procedure.

140. All powers and functions which are assigned by this Act to a Deputy Collector may be exercised and discharged by the Collector; and whenever it is provided by this Act that any act done, or order made by a Deputy Collector shall require the sanction of the Collector, or shall be appealable to the Collector, if such act shall have been done or such order shall have been made by the Collector, it shall be deemed to have been sanctioned by the Collector, or to have been confirmed by the Collector in appeal, as the case may be.

Power of Collector to enforce attendance of witnesses.

Power and functions assigned to Deputy Collector may be exercised by Collector.

141. The Lieutenant-Governor may vest any Collector or Deputy Collector with all or any of the powers which, under the provisions of any law for the time being in force, might be exercised by them respectively, or might be conferred on them respectively, if they were making a settlement of the parent estate.

Such powers may be conferred either generally in respect of all estates in the partition of which the Collector or Deputy Collector may at any time and in any District be engaged, or specially in respect of any particular estate.

142. An appeal, if presented within one month from the date of the order appealed against, shall lie to the Collector against every order of a Deputy Collector

(a) directing, under section forty-one, by whom the costs of an enquiry held in consequence of an objection preferred shall be paid;

(b) accepting or adopting any papers under section sixty-three for the purposes of a partition;

(c) refusing, under section sixty-eight, to confirm a partition made by the parties or by arbitrators;

(d) fixing, under section eighty-nine, the limits of land and the rent to be paid for it in perpetuity;

(e) refusing, under section one hundred and four, to make a partition as applied for by the joint applicants;

(f) passed under section one hundred and ten in respect of lands held rent free, or under section one hundred and eleven in respect of lands included in a tenure;

(g) imposing a fine under section one hundred and thirty-seven.

143. An appeal, if presented to the Commissioner, or to the Collector for transmission to the Commissioner, within one month from the date of the order appealed against, shall lie to the Commissioner against every order of the Collector (whether such order be passed by the Collector in the first instance, or in appeal from the order of a Deputy Collector)

(a) having the effect of rejecting an application for the partition of an estate, or for the separation of a share, or of putting an end to proceedings for effecting a partition or separation after the application has been admitted;

(b) directing, under section thirty-one, that an application for partition or separation be admitted;

(c) accepting or adopting any papers under section sixty-three for the purposes of a partition;

(d) refusing, under section sixty-eight, to confirm a partition made by the parties or by arbitrators;

(e) setting aside, amending, or approving the general arrangement of the partition under section seventy-five;

(f) approving, with or without amendment, a partition made by a Deputy Collector, or directing such partition to be amended or a fresh partition to be made, or making a fresh partition under section eighty-one;

(g) fixing, under section eighty-nine, the limits of land and the rent to be paid for it in perpetuity;

(h) refusing, under section one hundred and two, to allow a partition to be made in accordance with an existing private division;

(i) passed under section one hundred and ten in respect of lands held rent-free, or under section one hundred and eleven in respect of lands included in a tenure;

(k) approving or disallowing, under section one hundred and fourteen, the allotment to the estate under partition of a portion of lands held in common tenancy between the proprietors of such estate and the proprietors of one or more other estates;

(l) passed under section one hundred and sixteen as to disputes or doubts regarding land;

(m) imposing or confirming the imposition of a fine under section one hundred and thirty-seven;

(n) imposing any fine amounting to more than fifty rupees, or directing the payment of any costs amounting to more than fifty rupees.

144. An appeal, if presented to the Board, or to the Commissioner for transmission to the Board, within six weeks from the date of the order appealed against, shall lie to the Board against every order of the Commissioner which confirms, modifies, or reverses any order of the Collector

Appeal to the Board.

(a) having the effect of rejecting an application for the partition of an estate, or for the separation of a share, or of putting an end to proceedings for effecting a partition or separation after the application has been admitted;

(b) directing, under section thirty-one, that an application for partition or separation be admitted;

(c) accepting or adopting any papers under section sixty-three for the purposes of a partition;

(d) approving or disallowing, under section one hundred and fourteen, the allotment to the estate under partition, of a portion of lands held in common tenancy between the proprietors of such estate and the proprietors of one or more other estates;

and against every order of the Commissioner

(e) directing, under section forty, that any proprietor shall pay more than his proportionate share of the expenses of a partition, when the excess which he is ordered to pay exceeds five hundred rupees;

(f) directing, under section one hundred and thirteen, that any sum shall be paid by the proprietor of an estate other than the estate under partition, when such sum exceeds five hundred rupees;

(g) confirming, under section one hundred and eighteen or section one hundred and twenty, or amending or setting aside under section one hundred and twenty, a partition as made by the Collector;

(j) imposing, or confirming the imposition of any fine amounting to five hundred rupees, or ordering or confirming an order directing the payment of any costs amounting to more than five hundred rupees.

145. Except as provided in the three last preced-

No appeal to lie against any order passed under this Act.

ing sections, no appeal shall lie as of right against any order passed under this Act by any officer; but the proceedings and orders of every Deputy Collector under this Act shall be subject to the supervision and control of the Collector; the proceedings and orders of every Deputy Collector and of the Collector to the supervision

and control of the Commissioner; and the proceedings and orders of all revenue officers, to the supervision and control of the Board;

and any order passed and anything done under this Act may be modified, amended, or reversed by the supervising and controlling authority at any time before possession of their respective separate estates has been given to the several proprietors as provided in section one hundred and twenty-three, but not after such possession has been given, except as provided in the next succeeding section.

146. Any proceedings of a revenue officer

Proceedings connected with giving possession may be set aside within three months of date of giving possession.

connected with giving possession to the proprietors of their respective separate estates as provided in section one hundred and twenty-

three, may be set aside or amended as above provided by any supervising and controlling revenue authority, provided that such supervising and controlling authority shall within three months of the date on which such possession may have been given, make an order to the effect that such proceedings are under the consideration of such authority.

Such order shall be communicated to the Collector of the district, who shall cause the same to be published by notification in the manner prescribed by section one hundred and thirty-four.

147. The Commissioner and the Board

Orders as to costs on appeal.

may pass such orders as they shall think fit in respect of the payment of costs

of any appeal which is made to them respectively under this Act.

148. If, in any case in which a Collector

Powers of officers exercising jurisdiction under this Act with regard to false evidence.

or other officer shall exercise jurisdiction under this Act, any person is guilty of the offence of giving or

fabricating false evidence, or of forgery, as defined in the Indian Penal Code, or of abetting any of those offences, such Collector or other officer shall have the same powers in respect of such offence, and of the person charged with committing the same, as are vested by the Code of Criminal Procedure in a civil court, when any such offence is committed before or against such court, or when a document believed to be a forgery is given in evidence in any proceedings in such court.

Orders of revenue officer which are not liable to be set aside by civil suit.

149. No order of a revenue officer

(a) refusing to allow a partition on the grounds mentioned in section eleven;

(b) rejecting or directing to be amended an application under section twenty;

(c) made under the first clause of section thirty-two;

(d) made under Part IV, Part V, Part VI, Part VII, Part VIII (except as provided in the next succeeding section), or Part IX;

(e) imposing a fine;

(f) in respect of the payment of costs of any appeal under section one hundred and forty-seven,

shall be liable to be contested or set aside by a suit in any court, or in any manner other than as is expressly provided in this Act.

When suit may be brought to set aside order of revenue officer.

150. Notwithstanding anything contained in clause (d) of the last preceding section

any person claiming a greater interest in any lands which were held in common tenancy between two or more estates than has been assigned to him by the order of a revenue officer under section one hundred and twelve or section one hundred and fourteen;

and any person who is aggrieved by any order of a revenue officer passed under section one hundred and sixteen;

may bring a suit in a court of competent jurisdiction to modify or set aside such orders of the revenue officer.

151. In the execution of the duties vested in the Board by this Act, the Board shall be guided by such orders or instructions as they may from time to time receive from the Lieutenant-Governor.

152. The Board may, from time to time, make rules, not being inconsistent with this Act—

(a) to regulate the expenses of effecting partitions, or the amount of fees to be levied in respect of partitions, the allotment of the same among the proprietors, and the instalments in which, and the times at which the same shall be levied under Part IV;

(b) to regulate the receipts, disbursements, and management of any "Estates' Partition Fund" formed under section forty-five;

(c) to regulate the employment and remuneration of amins and other subordinate officers appointed under Part IV, to enable the officer making the partition to keep himself informed of the proceedings of such officers, and to exercise a proper control over them;

(d) to regulate the form in which the partition papers shall be framed under section sixty-six and section seventy-seven;

(e) and generally for the guidance of officers in conducting partitions under this Act.

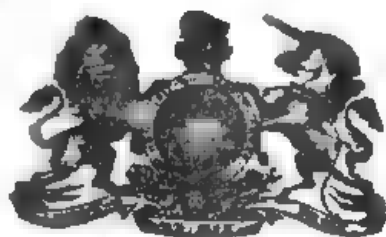
SCHEDULE.

See Section 2.

Number and year.	Subject or abbreviated Title.	Extent of repeal.
Regulation XI of 1811.	For extending period of re- vising jama on certain lands.	So much as has not been repealed.
Regulation XIX of 1813.	Consolidating Regulations respecting Partitions of Estates.	Ditto.
Act XX of 1836	Quashing of Butwaras	Ditto.
Act XI of 1839	Remuneration of persons effecting a partition.	Ditto.

FREDERICK CLARKE,

Offg. Asst. Secy. to the Govt. of Bengal,
Legislative Department.



The Calcutta Gazette.

WEDNESDAY, NOVEMBER 22, 1876.

PART IV.

Bills of the Bengal Council.

GOVERNMENT OF BENGAL.

LEGISLATIVE DEPARTMENT.

THE following Bill was read in the Council of the Lieutenant-Governor of Bengal for the purpose of making Laws and Regulations, on the 18th November 1876, and was referred to a Select Committee, who are to report thereon in one month:—

A Bill to amend the Court of Wards' Act, 1870.

WHEREAS it is expedient to amend the Court of Wards' Act, 1870: It is enacted as follows:—

1. In sections one, six, and twenty-two of the Court of Wards' Act, 1870, the word "twenty-one" shall be substituted for "eighteen" wherever the latter word occurs.

Amendment of sections 1, 6, and 22 of Court of Wards' Act.

2. For section two of the Court of Wards' Act, 1870, the following section shall be substituted:—

Amendment of section 2 of Court of Wards' Act.

"2. All proprietors of entire estates (other than proprietors who are subject to the jurisdiction as respects infants and lunatics of a High Court) who are, or may be, females not deemed by the court competent to the management of their own estates, or who are, or may be, minors, all sons of such females who are, or may be, minors, all joint proprietors of entire estates held in common tenancy who are, or may be, minors, and all proprietors of entire

Estates of disqualified proprietors not subject to sale.

estates who for the time being are, or may be, of unsound mind, or otherwise incapable of managing their affairs by reason of any disqualifying natural or acquired defect, shall be subject to the superintendence and jurisdiction of the Court of Wards; and all estates, the property of any such disqualified proprietors, when taken charge of by the court of wards, shall, whilst they shall be under the superintendence and jurisdiction of the court, be exempt from sale for arrears of revenue.

Provided, however, that all arrears of revenue shall be the first charge upon the proceeds of such estate in case the same may be sold for any other cause while under such superintendence and jurisdiction."

3. To section forty-five of the Court of Wards' Act, 1870, the following proviso shall be added:—

"Provided that the Lieutenant-Governor may at any time declare any manager to be no longer subordinate to the Collector, and may order him to be directly subordinate to the Court or to the Board of Revenue"

4. To section fifty-six of the Court of Wards' Act, 1870, the following words shall be added:—

"Except as provided in section thirty-one no guardian shall be appointed in any case in which the court may consider such appointment unnecessary."

Proviso to section 45 of Court of Wards' Act.

Addition to section 56 of Court of Wards' Act.

5. For sections seventy-two, seventy-four, and seventy-five of the Court of Wards' Act, 1870, the following sections shall be substituted—

Amendment of sections 72, 74, and 75 of Court of Wards' Act.

"72. No suit shall be brought on behalf of any ward unless the same be authorized by some order of the Collector under whose superintendence the estate of such ward may be, or, if the Lieutenant-Governor has, under section forty-five, declared the manager of the estate of such ward to be directly subordinate to the Court or to the Board of Revenue, then by some order of the Court or the Board of Revenue, as the case may be. Provided that nothing herein shall be deemed or taken to apply to any suit instituted or depending in the High Court.

Suits not to be brought on behalf of minors.

"74. No adoption by any ward and no written or verbal permission to adopt given by any ward is to be deemed valid without the consent of the Lieutenant-Governor, obtained either previously or subsequently to such adoption or to the giving of such permission, on application made to him through the Court and Board of Revenue.

Adoption by ward invalid without consent of Lieutenant-Governor.

"75. Farmers and others holding tenures in estates in charge of the Court under the Collector (whether such tenures were created before the estate came under the charge of the Court or by the Collector after the estate came under such charge), shall be subject to the

Tenures of wards' estates under Collector.

same rules, regulations, and Acts as are applicable to other persons holding similar tenures, and interests under Collectors of the land revenue; but when the farm is held from the manager, these rules, regulations, and Acts shall not apply.

"All arrears of rent due to the Collector from farmers and others holding tenures in estates in charge of the Court which accrued before the estate came under the charge of the Court, shall be deemed to be demands under section 1 of Bengal Act VII of 1868 (*an Act to make further provision for the recovery of arrears of land revenue and public demands recoverable as arrears of land revenue*), and shall be leviable as such."

6. The Lieutenant-Governor may order that the cost of superintendence of all estates under the charge of the Court shall be defrayed from a general contribution to be levied from such estates in such proportions as the Board of Revenue may direct.

Cost of superintendence of wards' estates.

The cost of superintendence of such estates shall be deemed to be

(a) the cost of any establishments which are entertained by the Collector and the Court for the purposes of such superintendence;

(b) the cost of such portion of the Legal Remembrancer's establishment as may be entertained for the purpose of superintending suits in which the Court is concerned;

and shall include, in the case of wards' estates situated in Behar, the salary of the Deputy Commissioner of wards' estates in Behar.

STATEMENT OF OBJECTS AND REASONS.

SINCE the passing of the Court of Wards' Act (IV of 1870) experience has brought to light a few defects and omissions in the Act, which it is the object of the present Bill to remedy.

It is deemed advisable to extend the operation of the Act by including among disqualified proprietors the minor sons of females subject to the superintendence of the Court, and to enact expressly that all joint proprietors of entire estates held in common tenancy, who are minors, are subject to its superintendence.

At present the Act makes an adoption by a ward invalid without the previous consent of the Lieutenant-Governor, and the same rule applies to an authority to adopt. It has been found desirable that the Lieutenant-Governor should have the power of subsequently validating an adoption, or a permission to adopt, though his previous assent may not have been given, and the Bill accordingly contains an amendment in this sense.

The Act enables the Collector to apply the certificate procedure of Bengal Act VII of 1868 to the recovery of arrears of rent from farmers and others holding tenures in estates in charge of the Court direct from the Collector. As considerable difficulty has arisen from a recent ruling of the High Court limiting the application of the certificate procedure to cases where the Collector himself had created the tenure, a clause has been introduced which will make tenures created before the estate came under the charge of the Collector amenable to the certificate procedure of Act VII of 1868.

Some other amendments of minor importance are dealt with by the Bill. A provision is inserted enabling the Lieutenant-Governor to declare a manager directly subordinate to the Court or to the Board of Revenue. It has been made clear that the appointment of a guardian is optional. And power has been given to the Collector to authorize the institution of suits brought on behalf of a ward, an authority which was previously delegated to the Court alone. At present great inconvenience is caused by the necessity of obtaining the leave of the Court before any suit, however formal or unimportant, can be instituted.

Lastly, the local Government is empowered to levy from estates under the charge of the Court a general contribution to defray the cost of superintendence. This is the present practice, but it is apprehended that a specific provision of the law is necessary to obviate possible difficulty.

The 4th November 1876.

V. H. SCHALCH.

FREDERICK CLARKE,

Offg. Asst. Secy. to the Govt. of Bengal, Legislative Dept.

The following Bill was read in the Council of the Lieutenant-Governor of Bengal for the purpose of making Laws and Regulations on the 18th November 1876, and was referred to a Select Committee, who are to report thereon in one month:—

A Bill to consolidate the Law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.

Whereas it is expedient that the laws relating to the manufacture of spirits and the sale of spirituous and fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom, should be consolidated: It is enacted as follows:—

CHAPTER I.

Preliminary.

1. This Act may be cited as "The Bengal Abkaree Law Consolidation Act," 1877.

2. It shall come into force from the date on which it may be published in the *Calcutta Gazette* with the assent of the Governor-General.

3. The enactments specified in the second schedule to this Act are hereby repealed to the extent mentioned in the third column thereof.

This repeal shall not revive any office, authority, or thing abolished by any such enactment, or affect the validity of anything done or suffered, or any right, title, obligation, or liability accrued before the commencement of this Act.

And all rules prescribed, appointments made, powers conferred, licenses granted, and notifications published under any such enactment, and all other rules (if any) now in force and relating to the matters hereinafter dealt with, shall (so far as they are consistent with this Act) be deemed to have been respectively prescribed, made, conferred, granted, and published hereunder.

And all references made to any such enactment shall, as far as may be practicable, be deemed to be made to this Act.

And all proceedings now pending, which may have been commenced under any such enactment, shall be deemed to be commenced under this Act.

4. In this Act—unless there be something repugnant in the subject or context—

"Board" means the Board of Revenue for the provinces for the time being subject to the Lieutenant-Governor of Bengal.

"Collector" includes a Deputy Collector, or other Revenue officer in independent charge of a district, and a Superintendent of Abkaree Revenue.

"Commissioner" means the Commissioner of a Revenue Division.

"Country spirit" means any spirit made by the native process of distillation.

"Intoxicating drugs" includes ganjah, bhang, churru, and opium, and every preparation and admixture of the same.

"Local Government" means the Lieutenant-Governor of Bengal for the time being, or the person acting in that capacity.

"Section" means a section of this Act.

"The Suburbs" means the Suburbs of Calcutta, as defined by the Lieutenant-Governor by notification in the *Calcutta Gazette*.

"The Town" means the Town of Calcutta, and includes all places within the local limits of the ordinary original civil jurisdiction of the High Court of Judicature at Fort William in Bengal.

5. Chapter II, save as provided in sections 41, 42, and 43, applies only to the Town of Calcutta; Chapter III applies to all the territories for the time being subject to the Lieutenant-Governor of Bengal, other than the Town of Calcutta; and Chapter IV applies to all the territories for the time being subject to the Lieutenant-Governor of Bengal, including the Town of Calcutta.

CHAPTER II.

ABKAREE ADMINISTRATION IN CALCUTTA.

6. The collection of the revenue arising from the retail sale of spirituous or fermented liquors and intoxicating drugs within the Town shall be under the charge of the Collector of Calcutta, who shall perform the duties connected therewith under the control of the Commissioner and the Board, and all proceedings of the Collector held under this Chapter shall be subject, with or without appeal, to their revision.

7. The Collector may appoint constables, darogahs, jemadars, burkundazes, and other officers, for collection of the said revenue and prevention of smuggling; and the officers so appointed, beside their ordinary respective designations, shall be styled "Abkaree Officers."

8. Every person who shall manufacture, or sell by retail, any spirituous or fermented liquors or intoxicating drugs specified in this Chapter, within the Town, without a license from the Collector, shall be liable to a fine not exceeding five hundred rupees for every such manufacture or sale; but this enactment shall not apply to the sale by wholesale dealers of such small quantities of beer, wines, or spirits, as may appear to the Collector to be used only as samples.

Provided that nothing contained in this section shall affect the arrangements under which tares is supplied to retail vendors, or the sale of such article, or any preparation of the same, when supplied or used for the manufacture of goor or molasses.

9. A sale of English or foreign beer, wines or spirits, in any quantity, not exceeding two gallons, or, of Bengal arrack or rum or other country spirit in any quantity, not exceeding two imperial gallons or twelve reputed quart bottles, or of taree in any quantity, not exceeding twelve seers, or of ganjah or bhang or any preparation or admixture of the same, in any quantity, not exceeding one quarter of a seer, or of churrus, opium, chundoo, or muddut, or any preparation or admixture of the same, in any quantity, not exceeding the weight of five tolahs, shall be deemed a retail sale within the meaning of this Chapter.

10. The sale of Bengal arrack or rum, or other country spirit, or of taree, or of ganjah, or bhang, or any preparation or admixture of the same, or of churrus, opium, chundoo, or muddut, or any preparation or admixture of the same, in quantities larger than those specified for each article in the last preceding section, is prohibited; and every person who shall act in breach of this prohibition shall be liable to a fine not exceeding five hundred rupees; but this prohibition does not apply to the sale of spirituous or fermented liquors and intoxicating drugs imported into Calcutta, under passes from the Collector, or other officer duly empowered in that behalf, and supplied by wholesale to licensed retail dealers, or to the sale of Bengal rum under bond for exportation by sea, or to the sale of opium intended for exportation by sea, and covered by a certificate to that effect, issued under the authority of the Board.

11. The Board shall have authority, at all times, to regulate the form of licenses to be granted under this Chapter, and to alter and add to the conditions thereof.

12. Every person taking out a license for the manufacture or sale of spirituous or fermented liquors, or intoxicating drugs as aforesaid, shall execute a counterpart engagement in exact conformity with the tenor of such license.

13. Whenever a license shall be granted under this Chapter the Collector shall be authorized to demand, in consideration of the privilege granted, such fee, tax, or duty as may from time to time be fixed with the sanction of the Board; or a fee, tax, or duty, adjusted or regulated in such manner and in accordance with such rules as the Board may prescribe; and such fee, tax, or duty shall be specified in the license, and shall be payable in advance or at such periods as the Board may direct.

14. The Collector may withhold or recall a license, if any such fee, tax, or duty be not duly paid, according to the conditions upon which the license is granted, or in case of a breach of any of the other conditions thereof, or with the sanction of the Commissioner for any other cause, giving one month's notice of such withdrawal; and any person selling, by retail, any spirituous or fermented liquors, or intoxicating drugs above specified, within the Town

whilst such license is withheld, or after it is recalled, shall be subject to all the penalties provided by this Chapter for the unlicensed sale of spirituous or fermented liquors or intoxicating drugs.

15. Any licensed retail dealer may surrender his license on giving fifteen days' previous notice to the Collector, and paying a sum equal to the tax for that time, over and above the sum payable under the license.

16. The Collector, after demand made in writing, may levy any arrears of tax or duty, due on account of any license granted under this Chapter, by distress and sale of the goods and chattels of the person from whom the same is due, provided that no such arrears shall be recoverable after the end of two years next after the same shall have become due, or next after an acknowledgment of the same in writing shall have been given by the person by whom the same is payable.

17. A breach of any of the conditions of a license granted under this Chapter shall, besides entailing forfeiture of the license, be punishable by a fine not exceeding fifty rupees; and such fine shall be recoverable from the licensed dealer, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop.

18. Any person, not being a licensed dealer, having in his possession, and any person carrying within the Town any greater quantity of spirituous or fermented liquors, or intoxicating drugs above specified, or any preparation or admixture of the same, except English and foreign beer, wines, and spirits, than the quantity specified for each article in section 9, and not being protected by a pass or permit from the Collector, or other officer duly empowered in that behalf, shall be liable to a fine, not exceeding five hundred rupees, except in the case of opium; and in the case of opium, to a fine to be fixed by the Board of Revenue for every district, not exceeding the selling price of opium in that district, for each seer found in the possession of, or carried by, such person; and if such last-mentioned fine shall not amount to five hundred rupees, such person shall be liable to a further fine not exceeding such sum as shall make the total fine imposed amount to five hundred rupees.

19. Besides the penalties above specified for the illicit manufacture, sale, possession, and carrying of spirituous or fermented liquors or intoxicating drugs, all the materials and implements used, or intended to be used, in the manufacture of the same, and all the liquors or drugs so manufactured, and all such liquors and drugs found in the possession of any offender contrary to the provisions of this Chapter, shall be seized and confiscated; and the vessels, packages, and coverings in which such liquors and drugs are found, and the animals and conveyances used in carrying them, shall also be liable to seizure and confiscation.

20. Any abkaree officer above the rank of a peon or chuprassy may enter and inspect at any time, by day or by night, and any abkaree officer may enter and inspect by day, the house or shop in which any licensed dealer shall carry on the sale of spirituous or fermented liquors, or intoxicating drugs.

21. Every person holding a license for the sale of spirituous or fermented liquors, or intoxicating drugs, shall keep such license at the house or shop specified in the license, and shall shew the license on the demand of any abkaree officer who shall desire to see the same; and any licensed dealer who shall refuse, or be unable to produce his license, on the demand of any abkaree officer, shall be liable to a fine not exceeding two hundred rupees.

22. Any abkaree or police officer may stop, detain, or arrest any person in whose possession may be found any spirituous or fermented liquors or intoxicating drugs not covered by such a pass as is required by this Chapter, or otherwise liable to confiscation, and may seize the liquors and drugs, with the vessels, packages, and coverings in which the liquors or drugs are found, and the animals and conveyances (if any) used in carrying them.

23. Whenever the Collector has good reason to believe, either from information given by any person, which shall be taken down in writing, or from his own knowledge, or from the proceedings in any case, that spirituous or fermented liquors or intoxicating drugs are being unlawfully manufactured or sold in any place, or that any such liquors or drugs which are liable to confiscation under this Chapter are kept or concealed in any place,

the Collector may, by warrant under his hand, empower any abkaree officer above the rank of jemadar, by day or by night, but always in the presence of an officer of police not being under the grade of a head constable, to enter into any such place, and to seize and carry away all such liquors or drugs, and all the implements or materials used in the manufacture thereof, and in case of resistance, to break open any door, and to force and remove any other obstacle to such entry, search, seizure, or removal as aforesaid, and to arrest and detain the owner or occupier of the premises, with all parties whom he suspects to be concerned in the unlawful manufacture or sale, or in the unlawfully keeping or concealing of such liquors or drugs, whom he shall find on the premises:

provided that, where there is ground to suspect that such liquors or drugs are unlawfully concealed in any zenana, the officer charged with the execution of the warrant shall follow, as closely as may be, the rules for the seizure of property so concealed adopted by the High Court.

24. The powers of seizure, search, and arrest given to abkaree officers by the last preceding section, shall also be exercised by any police officers who may

be specially selected by the Commissioner of Police for such purpose; and the powers which are conferred upon the Collector by the said section, as regards the issue of warrants directed to abkaree officers, shall also be vested in the Commissioner of Police, in respect of the issue of warrants directed to police officers selected in the manner aforesaid;

provided that it shall not be competent to the Collector to issue a warrant directed to a police officer, nor shall it be competent to the Commissioner of Police to issue a warrant directed to an abkaree officer.

25. Whenever any police officer, under the provisions of section 23 or of the last preceding section, shall arrest any person, or shall, seize any spirituous or fermented liquors or intoxicating drugs, he shall carry the person arrested, or the illicit articles seized, or both, as the case may be, with all convenient despatch, to a Magistrate of Police, and shall, within twenty-four hours thereafter, make a full report to the Commissioner of Police, and the Commissioner of Police shall at once inform the Collector of the fact of the arrest or seizure, and of the circumstances of the case; and the Magistrate of Police shall proceed to adjudicate the case according to law.

26. All constables and other ministerial officers of the peace are required to help the abkaree officers in the due execution of the provisions of this Chapter upon notice given or request made by any such abkaree officer: and any officer, who, without lawful excuse, shall refuse or neglect to assist as aforesaid on being required to do so, shall be liable to a fine not exceeding five hundred rupees.

27. Whenever any abkaree officer, duly authorized under this Chapter, shall arrest any person, or shall seize any spirituous or fermented liquors, or intoxicating drugs, or shall enter any house or shop for the purpose of searching for such illicit articles, he shall carry the person arrested, with the illicit articles seized, with all convenient despatch, to the Collector, and shall, within twenty-four hours thereafter, make a full report to the Collector of all the particulars of such arrest, seizure, or search. And the Collector, after such further inquiry as he deems necessary, shall forthwith either release the person arrested, or send him in custody to a Justice of the Peace for the town of Calcutta.

28. Every person who shall maliciously give false information against any person as being engaged in the unlicensed sale of spirituous or fermented liquors, or intoxicating drugs, or as having in his possession, or carrying, or in respect of there being in any house or shop any spirituous or fermented liquors, or intoxicating drugs, in contravention of this Chapter, shall be liable to a fine not exceeding five hundred rupees, or to im-

Powers as to entry and inspection of licensed dealer's house.

Penalty of two hundred rupees not keeping license at the place licensed, or not showing it on demand.

Power to arrest persons in possession of contraband liquors or drugs, and to seize the same.

Powers of search, seizure, and arrest vested in abkaree officers, under the authority of the Collector, in cases of illicit manufacture, sale, or possession of spirits, liquors, or drugs.

Police officer to carry the person arrested and the articles seized to the Magistrate of Police, and to report to the Commissioner of Police.

Commissioner to inform Collector.

Ministerial officers of the peace to assist abkaree officers on request.

Abkaree officer making arrest or seizure, or searching a house, to carry the person and property to the Collector. Collector may release or send to a Justice.

Similar powers to be exercised by certain police officers.

prisonment in the common jail for a period not exceeding six months, or to both.

29. Every person who shall obstruct or molest any abkaree officer, or any person acting in aid of such officer, in the due execution of the provisions of this Chapter, shall be liable to a fine not exceeding five hundred rupees; and such person shall be further liable, if an affray or breach of the peace shall happen in consequence of his resistance, on conviction of the same before a competent tribunal, to such punishment as is prescribed by law for cases of affray and breach of the peace, in addition to the penalty above prescribed for resistance of process.

Penalty of five hundred rupees for obstructing any abkaree officer or person aiding him.

30. Any abkaree officer who shall delay carrying to the Collector, and any Police officer who shall delay carrying to a Magistrate of Police, any person arrested or any illicit articles seized under this Chapter, and any Abkaree or Police officer who shall neglect to report the particulars of an arrest, seizure, or search, within twenty-four hours thereafter, shall be liable to a fine not exceeding two hundred rupees.

Penalty on abkaree or police officer delaying to carry person arrested or articles seized to Collector or Magistrate.

31. Any Abkaree or Police officer who shall vexatiously and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or searching for illicit spirituous or fermented liquors, or intoxicating drugs, or who shall vexatiously and unnecessarily arrest any person, or commit any other excess, not required for the execution of his duty under this Chapter, shall be liable to a fine not exceeding five hundred rupees.

Penalty on abkaree or police officer for vexatious seizure or arrest.

32. Any officer employed in the Abkaree Department, who shall unlawfully release or connive at the escape of any person arrested under this Chapter, or connive at the sale of spirituous or fermented liquors, or intoxicating drugs, without license, or by any licensed dealer, contrary to the terms of such license, or act in a manner inconsistent with his duty for the purpose of enabling any person to do any thing, whereby any of the provisions of this Chapter may be evaded or broken, or the abkaree revenue defrauded, shall be liable to a fine not exceeding five hundred rupees.

Penalty of five hundred rupees on abkaree officer for connivance.

33. Any abkaree officer who shall ask or take any gratuity not authorized by any law or order of the Local Government, or of the Board, in consideration of doing, or of omitting to do any act in his official capacity, and any person, who shall offer a bribe to any such officer, in order to induce such officer to act in a manner inconsistent with his duty, shall be liable, for every such offence, to a fine not exceeding five hundred rupees.

Penalty of five hundred rupees on abkaree officer asking or taking a bribe, or on any person offering the same.

34. Whenever any goods or chattels shall be seized by an abkaree officer, as liable to confiscation under this Chapter, such seizure shall, upon information exhibited by order of the Collector, be heard and determined in a summary way by any Justice of

Seizure to be determined summarily by Justice, on information exhibited by order of the Collector.

the Peace for the town of Calcutta; and such Justice shall cause the persons to whom such goods and chattels belong to be summoned to appear before him, and upon their appearance or default shall examine into the cause of the seizure thereof and give judgment; and if such judgment shall be for confiscation of the goods or chattels seized, shall issue his warrant to the Collector for the sale or disposal thereof, according to such orders as the Collector may receive from the Board.

35. Whenever any goods or chattels shall be seized as aforesaid, and within one calendar month, no person shall appear before the Collector to claim the same, the Justice shall examine into the cause of the seizure, at a place and time of which notice shall have been given by the Collector in the *Calcutta Gazette*, and give judgment for the confiscation of such of the goods and chattels, as, upon such examination, shall appear to him liable to forfeiture; and, upon confiscation thereof, shall issue his warrant for the disposal of them as if the owner had been summoned to attend the said Justice.

If no claimant appear before the Collector within a month after the seizure, Justice may confiscate the goods.

36. All fines leviable under this Chapter, except under section 98, shall be adjudged by any Justice of the Peace for the town of Calcutta, and the said Justice, upon information exhibited before him by order of the Collector, shall forthwith summon the parties accused, and upon their appearance or default, shall examine into the matter, and upon due proof made thereof, by the voluntary confession of the parties, or by the oath or solemn affirmation, in cases wherein a solemn affirmation is receivable by law instead of an oath, of one or more credible witnesses, shall give judgment accordingly; and in default of payment of any fine to which an offender is adjudged, he shall be liable, by order of the said Justice, to imprisonment in the common jail, for a period not exceeding six months, or until the fine is sooner paid: and no proceedings shall be taken under this section by any Justice of the Peace after the expiration of three calendar months from the date of the offence by which the fine was incurred.

Fines, except under section forty-one, to be adjudged by Justice; but not after three months from date of offence.

37. Whenever any person shall be convicted before any such Justice as aforesaid of an offence against the provisions of this Chapter after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment in the common jail for a period not exceeding six months; and a like punishment of imprisonment, not exceeding six months, shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

38. All articles confiscated under this Chapter, except opium, shall be disposed of by public sale under such rules as the Board may prescribe in that behalf. Confiscated opium shall, after examination by a competent officer, be disposed of as the Board may direct by a special or general order.

Disposal of confiscated articles.

39. When any penalty or confiscation shall be

Commissioner may call for the proceedings within one month after judgment, and may give relief.

adjudged by a Justice of the Peace under this Chapter, the Commissioner and, in his absence, the Board within one month after judgment given, may call for the proceedings of the case (with which requisition the Justice of the Peace shall be bound to comply), and, if he or they shall see cause, may direct that the articles seized, or any part thereof, be restored, and may remit or mitigate any penalty, and discharge the party.

40. All actions and prosecutions to be commenced

Actions for anything done under this Chapter to be commenced within three months, and one month's notice to be given.

against the Collector or any abkaree officer, or any person acting in aid of any such officer, for any thing done in pursuance of the provisions of this Chapter, shall be commenced within three calendar months after the fact committed, and not afterwards; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if after action brought, a sufficient sum of money shall have been paid into court, with costs, by or on behalf of the defendant.

41. Any chemist, druggist, apothecary, or

Penalty on chemist, &c., allowing liquors to be drunk on the premises.

keeper of a dispensary within the Town or the Suburbs or in Howrah, who shall be-
tween sunset and sunrise, allow spirituous or fermented liquors, which have not been *bona fide* medicated, to be drunk on his business premises by any person not employed in his business, and any such person who shall, between sunset and sunrise, drink such liquors on such premises, shall be liable to a fine not exceeding two hundred rupees, in addition to any other penalty to which he may be liable under this Chapter or any other Act; and any abkaree or Police officer above the rank of peon or chuprassee, who may have reason to believe that the provisions of this section are being in-

Abkaree or Police Officer may arrest persons drinking and seize liquors.

fringed, may enter upon such premises and seize and carry away such liquors, and, in case of resistance, break open any door, and force and remove any other obstacle to such entry or seizure, and arrest and detain the owner or occupier of the said premises, with all parties whom he suspects to be concerned in such unlawful drinking; and upon such seizure or arrest as aforesaid, the abkaree officer and Collector shall deal with such liquors or persons as provided in section 27, and the Police officer and a Magistrate of Police shall deal with them as provided in section 25.

42. No person shall be entitled to maintain

Penalty debts for liquors and drugs not recoverable by action.

any action or suit for, or recover in any court of law, any sum or sums of money, debt, or demand whatsoever, for or on account of any spirituous or fermented liquor, or intoxicating drug not supplied for medicinal purposes, sold within the Town or the Suburbs or in Howrah, unless such debt shall have been *bona fide* contracted at one time, to the amount of ten rupees or upwards; and no item in

any account or demand in any such suit for such articles of drink or such drug shall be allowed or maintained in any court of law as aforesaid, where the said articles delivered at one time, and mentioned in such item, shall not amount to the value of at least ten rupees, and that without fraud or collusion;

provided that nothing herein contained shall effect any action brought to recover any sums for such spirituous or fermented liquors sold to be consumed elsewhere than on the premises in quantities not less at any one time than a reputed quart;

provided also that nothing herein contained shall affect any action brought by a hotel-keeper to recover any sums for any articles of drink consumed by persons who were, at the time when such articles were supplied, residing on the premises.

43. Any person (whether holding a license

Prohibition to take articles in pledge for liquor or drugs.

or otherwise) selling spirituous or fermented liquor, or intoxicating drugs for other than medicinal purposes, within the Town or the Suburbs or in Howrah, who shall take a pledge from any person by way of security for the payment of any sum of money owing by such person for such liquor or such drugs, shall be liable, upon conviction, to a fine not exceeding twenty rupees; and the person to whom such pledge belongs shall have the same remedy for recovering the same as if it had never been pledged.

CHAPTER III.

ABKAREE ADMINISTRATION IN BENGAL.

44. The collection of the revenue arising from

Collectors to have charge of the Abkaree Revenue.

the manufacture of spirits, and the sale of spirits and spirituous and fermented liquors and intoxicating drugs, shall be ordinarily under the charge of the Collectors, who shall perform the duties connected therewith under the control and direction of the Commissioners and of the Board. But the Government may appoint any other person to be Superintendent of Abkaree Revenue in any district or place; and any person so appointed shall exercise, in such district or place, all the powers and authority vested by this Chapter in the Collector, and such powers and authority shall cease to be exercised in such district or place by the Collector during the continuance of such appointment.

45. The Local Government may also appoint a

Government may appoint Commissioners of Abkaree.

Commissioner or Commissioners for the control and direction of the officers having charge of the Abkaree revenue in any district or districts; and when such appointment is made, the Commissioner of Abkaree shall exercise within such district or districts the powers and authority vested by this Chapter in Commissioners of Revenue; and the Revenue Commissioner shall cease to exercise such powers and authority in the said district or districts during the continuance of such appointment.

46. Collectors may appoint darogahs, jemadars,

Collectors may appoint Abkaree officers.

peons, surveyors, gaugers, and other officers, for the collection of the Abkaree revenue and for the prevention of smuggling, and the officers so appointed shall, in addition to their

ordinary designations, be styled "Abkaree Officers."

In districts where there are tehsildars and other local officers for the collection of the Land Revenue, the office of Abkaree darogah may be united with that of tehsildar, naibtehsildar, or peshkar; and in such cases, the tehsildar, naib-tehsildar, or peshkar, and the officers subordinate to him, shall be held and deemed to be abkaree officers within the meaning of this Chapter.

47. Spirituous liquors passed from distilleries worked according to the English method, fermented liquors manufactured at a licensed brewery, and spirituous and fermented liquors imported either by land or by sea, shall not be sold except under license from the Collector.

48. Persons taking out licenses for the wholesale vend of spirituous and fermented liquors as aforesaid shall pay, for every such license, the sum of sixteen rupees. The license shall be current only during the official year, and in the district in which it is granted. But travelling merchants may obtain a general license, authorizing them to sell by wholesale, in any district which they may visit in the course of their travel, without taking out a fresh license for that district, under such rules and restrictions as may be, from time to time, prescribed by the Board.

49. Persons taking out licenses for the retail sale of spirituous and fermented liquors as aforesaid shall pay for every such license such fee, tax, or duty as may from time to time be fixed with the sanction of the Board, or a fee, tax, or duty, adjusted or regulated in such manner and in accordance with such rules as the Board may prescribe; and such fee, tax, or duty, shall be specified in the license, and shall be payable in advance or at such periods as the Board may direct. Any sale of spirituous or fermented liquors as aforesaid in less quantity than two imperial gallons or one dozen of reputed quart bottles shall be held to be a retail sale.

50. It shall not be lawful for any person to manufacture spirits after the native process, nor to sell such spirits, or taree, or puchwai, or ganjah, bhang, churris, opium, or any preparation or admixture of the same, except under license from the Collector.

51. All the provisions relating to the sale or possession of fermented liquors contained in the following sections of this Chapter shall be held applicable to the sale or possession of taree, whether in a fermented state or otherwise; and all taree, both fresh and fermented, shall be held to be included in the expression "fermented liquors" as used in the following sections of this Chapter;

provided that the Local Government may, on the report of the Board, pass an order suspending the operation of all the provisions relating to

taree contained in this Chapter with respect to any district in which the consumption of taree in a fermented state is inconsiderable; and after the passing of any such order, it shall be lawful for taree to be possessed and sold without license in any such district, notwithstanding anything contained in this Chapter.

52. The Collector, with the sanction of the Board, may establish, at any place within his jurisdiction, a distillery in which spirits may be manufactured after the native process; and may from time to time fix limits within which no country spirits, except such as are manufactured at the said distillery, shall be introduced or sold without a special pass from the Collector, and within which no stills shall be constructed or worked, or spirits manufactured, except at the said distillery. He may also, with the like sanction, discontinue any distillery so established, whenever its discontinuance may appear to be expedient.

53. The Board may prescribe such rules relative to the management of distilleries established under the last preceding section, to the conditions on which spirits may be manufactured in the said distilleries, and to the passes to be issued for the conveyance of such spirits to the shops of the vendors, as may from time to time be judged expedient.

54. The Board may, with the sanction of the Local Government, from time to time prescribe rules consistent with this Act,

for regulating the mode in which fermented liquors shall be supplied to licensed vendors of the same;

for subjecting the cultivation of plants from which intoxicating drugs are produced, and the preparation of the said drugs, to such restrictions and supervision as may be deemed necessary to secure the duty leviable thereon;

and for granting licenses or passes to persons cultivating, preparing, storing, possessing, purchasing, or transporting the said plants or drugs.

All such rules shall be published in the *Calcutta Gazette*, and when so published, shall have effect as if they were contained in this Act.

Every person who refuses, or neglects to obey, or contravenes any rule issued and sanctioned under the provisions of this section, shall be liable to a fine not exceeding two hundred rupees.

55. Opium shall be supplied to licensed vendors from the Government stores in such manner and at such prices as the Board may direct: and no other description of opium shall be sold by such vendors. Provided that the Local Government may exempt any district or districts from the operation of this section.

56. Prosept for the supply of licensed vendors, country spirits, tares, and puchwai, and intoxicating drugs, shall not be sold in larger quantities than are hereunder specified—namely, country spirits, two imperial gallons or twelve reputed quart bottles; tares or puchwai, twelve seers; ganjah or bhang, or any preparation or admixture of the same, one quarter of a seer; oburrus or opium, or any preparation or admixture of the same, five tolahs weight; and the sale of any such quantity as is herein allowed shall be deemed to be a retail sale within the meaning of this Chapter.

57. Whenever a license for the retail sale of country spirits, tares, or puchwai, or intoxicating drugs, shall be granted under this Chapter, the Collector shall be authorized to demand, in consideration of the privilege granted, such tax or duty or a tax or duty adjusted on such principles, as may from time to time be fixed with the sanction of the Board; and such tax or duty shall be specified in the license, and shall be payable at such periods as the Board may direct.

The Collector may grant special licenses for the sale of unfermented tares only, at those periods of the year when the fresh juice is in request; fees may be demanded for such special licenses at a rate not exceeding one rupee for each license; and the vendors shall not be subject to any other tax or duty in respect of such sale.

58. Every person taking out a license for the manufacture of country spirits or for the retail sale of spirituous or fermented liquors, or intoxicating drugs, shall execute a counterpart engagement in conformity with the tenor of the license, and shall give such security for the performance of his engagement, or make such deposit in lieu of security as the Collector may require.

59. Unless otherwise specially authorized by the Board, licenses for retail sale shall be granted for the term of one year, and if continued to the holders thereof, shall be formally renewed from year to year. But it shall be incumbent on every person holding a license, who may intend not to renew it, to give notice of his intention to the Collector fifteen days previously to the expiration of the year; and if such notice be not given, and the license be not recalled by the Collector, the license held, and engagement entered into by every such person, shall remain in force as if the said license and engagement had been formally renewed.

60. The Board shall have authority to regulate the form and conditions of all licenses granted under this Chapter.

61. The Collector may recall or cancel any license granted under this Chapter, if the tax or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a breach of the peace or any other criminal offence. If the Collector desire to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice and remit a sum

equal to the tax for fifteen days, or if notice be not given, shall make such further compensation for default of notice as the Commissioner or Board shall direct.

62. Any licensed retail vendor may surrender his license on giving fifteen days' previous notice to the Collector, and paying a sum equal to the tax for fifteen days over and above the sum payable under the license.

63. The Collector may recover any arrear of tax or duty due on account of any license granted under this Chapter, by distress and sale of the goods and chattels of the person from whom the same is due or of his surety, or by any other process which is or may be in force for the recovery of arrears of revenue due from farmers of land or their sureties.

64. Every person licensed to manufacture country spirits or to sell spirituous or fermented liquors or intoxicating drugs, who shall not produce his license on the demand of any abkaree officer, or who shall commit any act in breach of any of the conditions of his license not otherwise provided for in this Chapter, shall be liable for every such offence to a fine not exceeding fifty rupees.

65. Every licensed retail vendor, who shall sell any larger quantity of spirituous or fermented liquors, or intoxicating drugs, than is allowed to be sold by retail by the provisions of this Chapter, and every licensed wholesale vendor who shall make a retail sale, shall be liable for every such offence to a fine not exceeding two hundred rupees.

Provided that nothing in this section shall be held to prohibit the grant to the same person of both wholesale and retail licenses, subject to the provisions of this Chapter.

66. Every person licensed to sell spirituous or fermented liquors, or intoxicating drugs, who shall permit drunkenness, riot, or gaming in his shop, or shall permit persons of notoriously bad character to meet or remain therein, or shall receive any wearing apparel or other effects in barter for liquors or drugs, shall be liable for every such offence to a fine not exceeding two hundred rupees.

67. Every person who shall convey or attempt to convey any country spirits from a distillery established under section 52 without a pass, or exceeding the quantity for which a pass shall have been granted, or shall introduce or attempt to introduce any country spirits manufactured at another place into the limits fixed for the consumption of spirits manufactured at such distillery, without a special pass from the Collector, shall be liable for every such offence to a fine not exceeding five hundred rupees.

68. Every person who shall wilfully contravene any rule prescribed by the Board for the management of a distillery established as aforesaid, otherwise

Sale of more than specified quantities of country spirits, &c., prohibited.

Duty on the retail sale of country spirits, &c.

Licensed retail vendors of country spirits to furnish security.

Duration and renewal of license.

Board to regulate form of licenses.

License may be recalled in certain cases.

Recovery of arrears of tax or duty.

Penalty for refusing to produce license on demand of abkaree officer = for breach of license.

Penalty for sale in contravention of license.

Penalty for permitting drunkenness, &c., in shop.

Penalty for conveying country spirits from distillery without pass, &c.

Penalty for contravention of rules prescribed by the Board.

than as provided for in the last preceding section, shall be liable for every such offence to a fine not exceeding fifty rupees.

69. Every person other than a licensed manufacturer, who shall manufacture any country spirits, and every person other than a licensed vendor, or a person duly authorized to supply licensed vendors, who shall sell any spirituous or fermented liquors, or intoxicating drugs, and every person authorized to supply licensed vendors, who shall sell any such liquors or drugs to any person other than a licensed vendor, shall be liable for every such offence to a fine not exceeding five hundred rupees.

Provided that nothing contained in this section or in section 48, shall apply to the sale by auction of any spirituous liquors, wines, or beer purchased by any person for his private use and so disposed of upon such person quitting a station or after his decease.

70. Every person, other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendors, who shall have in his possession any larger quantity of country spirits, or tarce, or puchwai, or intoxicating drugs, except opium, than may legally be sold by retail under the provisions of section 57, or shall transport by land or by water, or have in his possession, any spirituous liquors made at a distillery worked according to the English method, or any imported spirituous or fermented liquors, in larger quantity than two gallons, without a pass from the Collector or other Officer duly empowered in that behalf, shall be liable for every such offence to a fine not exceeding two hundred rupees; and the liquors and drugs, together with the vessels, packages, and coverings in which they are found, and the animals and conveyances used in carrying them, shall be liable to confiscation.

Nothing contained in this section shall apply to any spirituous liquors, wines, or beer, purchased by any person for his private use and not for sale.

71. The provisions of the two last preceding sections, so far as they relate to the sale and possession of fermented liquors, do not apply to the sale and possession of tarce, the produce of the date tree, when supplied or used for the

manufacture of goor or molasses;

and the provisions of the said sections relating to the sale and possession of intoxicating drugs, do not apply to the sale or possession of such drugs by any person duly authorized under this Chapter to cultivate the plants which produce these drugs;

provided that every such cultivator selling or parting with any such plant, or any preparation made therefrom, to any person other than a licensed vendor, or person duly authorized to purchase the same by pass or licence from the Collector, or failing to account for any quantity of such plant, or of any preparation thereof, which shall have been in his possession, shall be liable to a fine not exceeding

five hundred rupees.

72. Every person, other than a licensed vendor, who shall have in his possession a greater quantity of opium than five tolahe weight, shall be liable for every such offence to a fine not exceeding five hundred rupees, unless the opium found in the possession of such person shall exceed the weight of thirty-one seers and a quarter, in which case the fine may be increased at a rate per seer to be fixed by the Board of Revenue for every district, not exceeding the selling price of opium in that district, for all the opium so found in excess of that weight; and the opium, together with the vessels, packages, and coverings in which it is found, and the animals and conveyances used in carrying it, shall be liable to confiscation.

Nothing contained in the last preceding section shall extend to the persons and circumstances hereinafter specified, namely:—

1. Authorized opium cultivators having newly extracted opium in their possession during the usual period between the full growth of the poppy and the delivery of the produce to the Opium Agent.
2. Travellers and visitants from foreign States or countries having in their possession any quantity of foreign opium not exceeding two seers, the produce of such States and countries, and intended for the private use of such travellers and visitants, or their attendants, and not for sale or traffic.
3. Dealers in horses travelling with strings of horses from beyond the south-west frontier of the territories for the time being subject to the Lieutenant-Governor of the North-Western Provinces, and having in their possession opium, the produce of foreign States or countries, not exceeding in quantity the proportion of ten tolahe weight for each horse.

If opium be found in the possession of any traveller or visitant, or any dealer in horses as aforesaid, in excess of the quantities above specified, such excess shall be liable to confiscation, but the persons in whose possession it may be found shall not be subject to any further penalty.

74. Every licensed vendor, who shall sell or offer for sale opium adulterated with any foreign substance, not being a preparation or admixture of opium for the sale of which such vendor may have taken out a license, or, except in districts exempted from the operation of section 55, shall sell or have in his possession any opium other than the opium supplied to him from the Government stores, shall be liable for every such offence to a fine not exceeding five hundred rupees, and the license held by him shall be withdrawn, and the opium, together with the vessels or packages in which it is found, shall be seized and confiscated.

75. Every proprietor, farmer, tehsildar, gomastah, or other manager of land, who shall authorize or connive at the manufacture of country spirits or the sale of spirituous or fermented liquors or

Penalty for having in possession a greater quantity of opium than five tolahe weight.

Penalty for illicit manufacture or sale of country spirits, &c.

Penalty for illegal possession of country spirits, &c.

Penalty for possession of excessive quantity of opium by travellers, &c.

Penalty for sale of adulterated opium, &c., by licensed vendors.

Penalty for sale or transfer by cultivators to unlicensed persons, or for failure to account for stock of plant in possession.

Penalty for conniving at the illicit manufacture or sale of spirits, &c.

intoxicating drugs by any unlicensed person, shall be liable for every such offence to a fine not exceeding five hundred rupees.

76. Any abkaree officer may enter and inspect at any time by day or by night the shop or premises in which any licensed manufacturer or retail vendor shall carry on the manufacture of country spirits, or the sale of spirituous or fermented liquors, or intoxicating drugs.

77. Any abkaree officer may stop and detain any person carrying any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Chapter; and may seize the liquors or drugs with the vessels, packages, or coverings in which they are contained, and the animals and conveyances used in carrying them; and may also arrest the person in whose possession such liquors or drugs are found.

78. Any abkaree officer superior in rank to a peon may arrest any person having in his possession an unlicensed still, or any spirituous or fermented liquors, or intoxicating drugs, liable to confiscation under this Chapter, or engaged in the unlawful sale of spirituous or fermented liquors, or intoxicating drugs, and may seize such still with the materials for working it, and all such liquors and drugs.

79. Whenever any abkaree officer superior in rank to a peon shall have good reason to believe, from information given by any person, which information shall be taken down in writing, that spirits are unlawfully manufactured, or that any spirituous or fermented liquors, or intoxicating drugs liable to confiscation under this Chapter, are kept or concealed in any house, boat, or other place, such officer may, between sunrise and sunset, but always in the presence of a darogah or other officer of Police not being under the grade of a jemadar, enter into any such house, boat, or place, and in case of resistance may break open any door, and force and remove any other obstacle to such entry; and may seize and carry away all stills and materials used in the manufacture of such spirits and all such liquors and drugs; and may also arrest the occupier of the house, boat, or place with all other persons concerned in the manufacture of such spirits, or in the keeping and concealing of such liquors or drugs.

80. The powers of seizure, search, and arrest given to abkaree officers by the three last preceding sections, shall, in regard to the seizure and search for contraband opium and the arrest of persons found in possession thereof, be vested also in the officers of the Police, Customs, and Revenue Departments according to their respective grades. And the Local Government may invest the officers of those departments, or of any of them, with the like powers with respect to the seizure of, and search for, spirituous and fermented liquors and intoxicating drugs of every description, and the arrest of persons found in

possession of them; and although officers when so empowered, as well as all Police, Customs, and Revenue officers when acting under the authority conferred by this section for the suppression of illicit dealings in opium, shall be held and deemed to be abkaree officers within the meaning of this Chapter.

81. Whenever an abkaree officer shall arrest any person, or seize any still, or any liquors or drugs liable to confiscation under this Chapter, or enter any house, boat, or place for the purpose of searching for any such illicit articles, he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, or seizure, or search, to his official superior, and unless acting under the warrant of the Collector, shall carry the person arrested, or the illicit article seized, with all convenient despatch, to the Magistrate for trial or adjudication.

82. The Collector may issue his warrant for the arrest of any person whom he may have reason to believe, either from information in writing, or from the proceedings in any other case, to be engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, or to have in his possession any such liquors or drugs liable to confiscation under this Chapter.

83. The Collector may issue his warrant for the search of any house, boat, or other place, in which, upon any of the grounds mentioned in the last preceding section, he may have reason to believe that spirits are unlawfully manufactured, or that spirituous or fermented liquors or intoxicating drugs, liable to confiscation under this Chapter, are kept or concealed, and such warrant may be executed by any officer above the rank of a jemadar of peons, in the manner prescribed in section 80.

84. Whenever any person is arrested, or any articles are seized under the warrant of a Collector, the Collector, after such inquiry as he thinks necessary, shall send the person arrested or the articles seized to the Magistrate, or shall order the immediate discharge of such person or the release of such articles.

85. Every person who shall obstruct or resist any abkaree officer in the due execution of this Chapter, or of any rules prescribed under the authority thereof, shall be liable for every such offence to a fine not exceeding five hundred rupees.

86. All Police officers are required to aid the abkaree officers in the due execution of this Chapter upon notice given or request made by such officers; and any Police officer who, without lawful excuse, shall neglect or refuse to assist as aforesaid, and any darogah or other officer in charge of a Police station, who, on application made by an abkaree officer under section 80, shall fail to attend a search himself, or to depute a subordinate officer, not being below the grade of a jemadar, shall be liable

for every such offence to a fine not exceeding five hundred rupees.

87. Every person who shall maliciously give false information against any person as being engaged in the unlawful manufacture of spirits, or as selling or having in his possession any spirituous or fermented liquors or intoxicating drugs in contravention of this Chapter, and so procure that such person be arrested or that any house, boat, or other place be searched, to the injury or annoyance of such person, or any other person whatsoever, shall be liable for every such offence to a fine not exceeding five hundred rupees, which sum, or any portion thereof, may be paid to the person aggrieved, and shall be further liable to imprisonment for a period not exceeding six months.

88. Any abkaree officer who shall, without reasonable ground of suspicion, search or cause to be searched any house, boat, or other place, or shall vexatiously and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or searching for any spirituous liquors or intoxicating drugs liable to confiscation under this Chapter, or shall vexatiously and unnecessarily arrest any person, or commit any other excess not required for the execution of his duty, shall be liable for every such offence to a fine not exceeding five hundred rupees, which sum, or any portion thereof, may be paid to the person aggrieved.

89. Any abkaree officer who shall neglect to report the particulars of an arrest, seizure, or search within twenty-four hours thereafter, or shall delay carrying to the Magistrate or Collector, as the case may be, any person arrested, or any illicit articles seized under this Chapter, shall be liable for every such offence to a fine not exceeding two hundred rupees.

90. Any abkaree officer who shall unlawfully release or connive at the escape of any person arrested under this Chapter, or connive at the manufacture of spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, or by any licensed person, contrary to the terms of his license, or act in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of this Chapter may be evaded or broken, or the Abkaree Revenue defrauded; and any Darogah of Police or other officer invested with local jurisdiction, who shall authorize, or connive at the establishment of any unlicensed shop for the sale of such liquors or drugs as aforesaid in any place subject to his control, shall be liable for every such offence to a fine not exceeding five hundred rupees.

91. Any abkaree officer who shall ask or take any unauthorized gratuity in consideration of doing or omitting to do any act in his official capacity, shall be liable to a fine not exceeding five hundred rupees.

92. All penalties prescribed for offences against the provisions of this Chapter, and all seizures of goods declared liable to confiscation

under this Chapter, shall be adjudged by the Magistrate on the information of the Collector or any abkaree officer.

Provided that no such information shall be necessary in any case of complaint preferred to a Magistrate under any of the seven last preceding sections or under section 86.

93. In all cases in which complaint or information is preferred to a Magistrate of offences committed against the provisions of this Chapter, not being cases in which persons are sent in custody by a Collector or abkaree officer, the Magistrate shall issue a summons requiring the attendance of the person accused.

Provided that no complaint or information of an offence against the provisions of this Chapter shall be admitted unless it be preferred within the period of six months after the commission of the offence to which the complaint or information refers.

94. Whenever any person shall be convicted of an offence against the provisions of this Chapter, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

95. Every person who shall be imprisoned under the last preceding section, or on account of the non-payment of any fine levied under this Chapter, if the offence of which he has been convicted be one with respect to which the information of the Collector or an abkaree officer is required by section 92, may be confined either in the civil or in the criminal jail.

96. All articles confiscated under this Chapter, except opium, shall be disposed of by public sale under such rules as the Board may prescribe in that behalf. Confiscated opium shall, after examination by a competent officer, be disposed of as the Board may direct by a special or general order.

97. All fines levied under this Chapter, the disposal of which is not specially provided for, shall belong to the Local Government; but the Board may appropriate any portion thereof, not exceeding one-half, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Chapter.

98. The Collector in respect of the duties to be performed by him under this Act, shall have power to punish any contempt committed in his presence in open court by fine not exceeding two hundred rupees, commutable, if not paid, to imprisonment in the common or civil jail for a period not exceeding one month.

99. The Collector may, with the sanction of the Board, let in farm, for any period not exceeding five years, the duties leviable on the retail sale of spirituous or fermented liquors, or intoxicating drugs, or any description of such liquors or drugs, in any pergunnah or other known division of a district.

Collector with the sanction of the Board may farm out the duties leviable on the sale of spirits, &c., except opium.

100. The Board may prescribe rules for the invitation and acceptance of tenders for such farms, and for the requisition of security for the due fulfilment of the engagements entered into by the farmers. The Board may also regulate the form and conditions of lease; and any breach of those conditions shall render the lease liable to annulment.

Board to regulate invitation and acceptance of tenders for such farms.

101. When the duties leviable on any of the articles above enumerated are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm.

dors within the limits of his farm; and all the penalties and forfeitures prescribed by this Chapter for the unlawful manufacture, sale, or possession of any such article, shall be incurred by all persons manufacturing, selling, or possessing the same without license or authority from the farmer.

Provided that every such farmer shall be required to file in the Collector's office a list of all the licenses granted by him in such form as may be prescribed by the Board.

List of licenses granted by farmer to be filed. Restrictions with respect to grant of licenses.

Provided also that the Collector may, with the sanction of the Board, before entering into engagements for any such farm, make such reservations or restrictions with respect to the grant of licenses as may be deemed proper and expedient.

102. The Collector may, with the sanction of the Board, cancel any lease granted under this Chapter, or, within the period of the lease, impose any new restriction on the farmer. If a lease be cancelled for any cause other than a breach on the part of the farmer of the conditions of the lease, or if any reservation or restriction with respect to the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he may sustain thereby as the Board shall think just and proper.

Lease may be cancelled. Compensation to farmers in certain cases.

103. The provisions of section 83 shall be applicable to any arrear that may be due from any farmer of Abkaree Revenue; and every such farmer shall be authorized and empowered to use the same means and processes for the recovery of any arrear of tax or duty due to him from any authorized vendor, which may be lawfully used by zemindars and farmers of land for the recovery of arrears of rent due to them from their under-tenants.

Recovery of arrears of tax or duty from or by farmers.

104. Within the limits of any Military Cantonment, and within a circle drawn at a distance of two miles, or such other distance as may in any case be

Rules respecting the manufacture and sale of spirits, &c., in Military Cantonments.

prescribed by the Local Government from such limits, licenses for the manufacture of spirits, and for the sale of spirituous and fermented liquors shall not be granted, nor shall the duties leviable upon such spirits and liquors be let in farm, otherwise than with the knowledge and consent of the Commanding Officer: and upon the requisition of such Officer, any license which may have been granted, either by the Collector or by a farmer, within such circle or limits, shall be immediately withdrawn.

105. In all other respects the foregoing provisions of this Chapter shall have full force and effect within such circle and limits as aforesaid.

Mode of making arrest or search within Military Cantonments.

Provided that, when arrest or search is to be made within the limits of any Cantonment, the Collector or other Officer authorized under this Chapter to make arrest or search shall, whenever it may be practicable, give previous notice to the Commanding Officer, and in all other cases shall report the arrest or search to such Commanding Officer with as little delay as possible.

Provided also that nothing herein contained shall affect or interfere with the provisions of Act XXII of 1864 (*an Act to make provision for the Administration of Military Cantonments*).

106. In the districts in which the poppy is cultivated on account of the Opium Department, Government, the Deputy Opium Agents and Sub-Deputy Agents shall exercise the powers vested by this Chapter in Collectors, so far as the same relate to the suppression of illegal dealings in opium; and the officers of the Opium Department shall exercise the powers vested by this Chapter in abkaree officers for the seizure of illicit opium and the arrest of persons found in possession thereof, and in respect to such seizures and arrests, shall be held and deemed to be abkaree officers within the meaning of this Chapter.

107. All the provisions of this Chapter which relate to puchwai, shall apply to any fermented liquor other than those specified in the said Chapter.

Provided that the Local Government may, within any specified district or tract of country, exempt any fermented liquor from the provisions of this Chapter.

108. It shall not be lawful for any person to cultivate plants, from which intoxicating drugs are produced, without a license from the Collector of the district in which such plants are cultivated; and any person who shall so cultivate, or in any way cause, encourage, or promote such illegal cultivation, shall be liable to a fine not exceeding five hundred rupees; and the plant so cultivated shall be liable to seizure and confiscation.

Prohibition of unlicensed cultivation of plants producing intoxicating drugs, and of abetment of the same.

CHAPTER IV.

109. It shall not be lawful for any person to construct or work a distillery after the manner in which distilleries are constructed and worked in England, without a license under

English distilleries not to be constructed or worked without license.

the signature of the Collector of the district in which such distillery is situated, or in case the distillery is within twenty miles of Calcutta, or such other distance less than twenty miles, as may from time to time be prescribed by the Local Government, under the signature of the Collector of Calcutta.

110. The Board, with the sanction of the Local Government, may prescribe such rules relative to the granting of licenses under the last preceding section, to the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work, to the size and description of the stills, to the passing and storing of the spirits, to the inspection and examination of the distillery and warehouses, and of the spirits manufactured and stored therein, and to the furnishing of statements and lists of such spirits, and of the stills, coppers, casks, and other utensils used in the distillery, as may from time to time be judged expedient.

111. A duty shall be levied on spirits manufactured at distilleries worked according to the English method, at the rate of four rupees the imperial gallon of the strength of London-proof, and the duty shall be ratably increased as the strength exceeds London-proof. No spirit shall be removed from any such distillery, or the warehouses connected therewith, upon which the aforesaid duty has not been paid, or for the duty chargeable on which a bond has not been executed; and for all spirits removed upon payment of duty or under bond, passes shall be issued by the Collector, which shall specify the quantity and strength of the spirit, the place of its destination, the person to whom it is consigned, and whether the duty has been paid or secured by bond.

112. A drawback of the duty paid as above on spirits manufactured after the English method, and exported by sea in the manner hereinafter prescribed, to any port not subject to the Government of India or to any port in the Settlement of Prince of Wales' Island, Singapore, and Malacca, or to the Port of Aden, shall be allowed by the Collector of Customs at the port of exportation. Provided always that the exportation shall be made within one year from the date of the payment of duty under this Chapter, and that the spirits, when brought to the Custom House, shall be accompanied by the pass in which such payment is certified.

113. Spirits brought to the Custom House for exportation by sea shall, previous to shipment, be gauged and proved by an officer of the Customs. The amount of drawback to be allowed upon spirits for which duty has been paid shall be regulated according to the strength and quantity of the said spirits, as ascertained by such proof and gauge; and the quantity of spirits, for which credit is to be given in the settlement of any bond, shall be determined in the same manner. Spirits under bond shall be taken from the distillery direct to the Custom House, under passes to be granted for that purpose by the Collector.

114. When spirits are passed from a distillery under bond, duty shall be recoverable upon any difference between the quantity of spirits so passed from the distillery and the quantity ascertained by gauge and proof at the Custom House, less such allowance for ullage and leakage as may be prescribed by the Board.

115. Spirits brought to the Custom House under bond for exportation may nevertheless be removed for local consumption under passes to be granted for that purpose by the Collector of Revenue upon payment of the prescribed duty on the quantity so removed; and credit for such payment shall be given on the settlement of the bond.

116. Any sum which may remain due to Government upon the settlement of a bond executed according to the provisions of this Chapter, may be recovered by any process which is or may be in force for the recovery of arrears of revenue due from farmers of land or their sureties, or by suit on the bond in any Court of competent jurisdiction.

117. No drawback shall be allowed on any duty-paid spirits, nor shall the duty due on any spirits under bond be remitted, unless the spirits shall be shipped from the Custom House, and upon a vessel to which a Custom House officer has been appointed to superintend the receipt of export cargo. Spirits shipped for exportation shall not be reloaded without a special pass from the Collector of Revenue in addition to the usual order of the Collector of Customs.

118. No drawback shall be allowed on spirits exported to any port subject to the Government of India, other than the ports mentioned in section 112, or on spirits shipped as stores.

119. Rum, shrub, cordials, and other liquors, prepared in a licensed distillery under the supervision of the surveyor or officer in charge of the distillery, shall be charged with duty according to the quantity of spirit used in the preparation; and all the provisions contained in this Chapter respecting spirits manufactured after the English method, except such as relate to gauge and proof, shall be applicable to such liquors. When any such liquors are removed for exportation without payment of duty, the bonds to be executed by the persons removing them shall be in the form contained in the first schedule to this Act.

120. All licensed distilleries, constructed and worked after the English method, and situated within twenty miles of Calcutta, or such other distance less than twenty miles, as may, from time to time, be prescribed by the Local Government, shall be under the superintendence and control of the Collector of Calcutta, who shall exercise, with respect to such distilleries and to the spirits manufactured therein, all the powers vested in

Collectors by this Chapter; and the Collectors of districts in which any such distilleries are situated shall have no jurisdiction with respect to such distilleries.

121. Every person who shall construct or work a distillery after the English method, without a license from the Collector, shall be liable for every such offence to a fine not exceeding one thousand rupees; and all spirits manufactured at any such distillery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

122. Every proprietor or manager of a licensed distillery constructed and worked after the English method, who shall omit to furnish any notice or any statement or list required by the rules prescribed by the Board under section 110, or shall wilfully do anything in contravention of the said rules, shall be liable for every such offence to a fine not exceeding two hundred rupees; and if any such offence be committed a second time with respect to the same distillery, the license granted for the working of such distillery may be withdrawn by the Collector.

123. Every person who shall remove, or attempt to remove, from any licensed distillery constructed and worked after the English method, any spirituous liquors upon which the duty has not been paid, or for the duty on which a bond has not been executed, or any spirituous liquors for which a pass has not been issued by the Collector, shall be liable for every such offence to a fine not exceeding one thousand rupees; and the liquors, together with the vessels containing the same and the animals and conveyances used in carrying them, shall be liable to confiscation.

If it shall appear to the Collector that the offence was committed with the consent or knowledge of the proprietor or manager, the license granted for the construction and working of the distillery from which such liquors have been removed or attempted to be removed may be withdrawn.

124. Every person who shall re-land, or attempt to re-land, any spirituous liquors shipped for exportation, without a special pass from the Collector of Revenue at the place of exportation, shall be liable for every such offence to a fine not exceeding five hundred rupees; and the liquors, together with the casks and vessels containing the same, and the carts, boats, and animals employed in carrying them, shall be liable to confiscation.

125. Spirituous liquors manufactured at the foreign settlement of Chandernagore, or at any other place in India beyond the limits of British India, shall, on passing the limits of the territories to which this Chapter applied, be charged with the duty prescribed for proof spirits in section 111, and any person who may be found in possession of any such liquor, without a pass from the Collector certifying the payment of such duty, shall be liable for every such offence to a fine not exceeding two hundred

rupees; and the liquors, together with the vessels containing the same, and the animals and conveyances used in carrying them, shall be liable to confiscation.

126. It shall not be lawful for any person to construct or work a brewery, or to manufacture any description of malt liquor, without a license from the Collector of the district. The Board, with the sanction of the Local Government, may prescribe such rules relative to the granting of licenses for constructing and working breweries as may from time to time be judged expedient.

127. Every person who shall construct or work a brewery, or manufacture malt liquor, without a license, shall be liable for every such offence to a fine not exceeding five hundred rupees.

128. When any person is sentenced to pay any fine under this Act, the Magistrate shall follow the provisions of sections sixty-seven, sixty-eight, sixty-nine, and seventy of the Indian Penal Code, in awarding a period of imprisonment in default of payment thereof. Any such fine or forfeiture shall be recoverable in the manner prescribed by section three hundred and seven of the Code of Criminal Procedure.

129. All orders passed by a Collector under this Act shall be appealable to the Commissioner, and orders passed by the Commissioner shall be appealable to the Board of Revenue, in the usual manner, under the laws and regulations in force, relative to appeals from the orders of Collectors and Commissioners. Provided that it shall be discretionary with the Board to receive appeals direct from orders passed by a Collector.

130. Notwithstanding anything in this or in any other Act contained, the Local Government may, with the sanction of the Governor-General in Council, assign to the Corporation of the Town of Calcutta, or to any other Municipality, such functions and powers as it shall think fit in respect to the granting, withholding, and withdrawal of licenses for the sale of spirituous or fermented liquors and intoxicating drugs (being functions and powers which, but for such assignment, might legally be exercised by any officer of Government), to be exercised by such Corporation or by such Municipality within the limits of their respective jurisdictions under such conditions and subject to such rules as the Local Government may impose; and the Local Government may at any time withdraw and revoke any functions and powers which it has assigned under the provisions of this section.

Provided that such functions and powers shall not be assigned as aforesaid without the consent of the said Corporation or the Municipality concerned:

Provided also that no such conditions or rules shall be imposed by the Local Government after such assignment has taken place without the consent of the said Corporation or the Municipality concerned.

131. Whenever any fine or forfeiture is levied from a person convicted of the unlawful manufacture of spirituous or fermented

Penalty for constructing or working a distillery or collecting materials without license.

Penalty for non-observance of rules prescribed by Board of Revenue.

Penalty for removing spirituous liquors without payment of duty.

Penalty for irregular re-land of spirituous liquors.

Spirits from foreign territories subject to duty.

Construction or working of breweries and manufacture of malt liquor, without license, prohibited.

Penalty.

Imprisonment in default of payment of fine.

Appeals from orders passed under the Act.

Local Government may assign to any Municipality the granting of licenses.

Division of fine or forfeiture among Abkaree and Police officers and others.

liquors, or intoxicating drugs; or of the unlawful sale, purchase, or possession of such liquors or drugs; or of the unlawful cultivation of plants from which intoxicating drugs are produced, the Magistrate who adjudicates the case shall direct the amount of fine or forfeiture to be divided in such proportions as he may think fit between any persons (whether they be abkaree or Police officers or otherwise) who were instrumental in the detection of the offence, the seizure of the articles in respect of which the offence was committed, or the capture of the offender. The Magistrate shall also determine the proportions in which the proceeds of the sale of the confiscated articles, except in the case of opium, shall be distributed among the said persons; and in the case of opium confiscated, shall direct that, if such opium be declared fit for use by competent authority, a reward of three rupees for each seer so confiscated shall be similarly distributed.

Provided that if any confiscated articles shall have been sold or may be sold by the Collector for a price which includes the duty leviable on the said article, such amount as the Collector may determine to represent such duty shall be deducted from the sale proceeds and credited to Government, and the remainder only of the price realized by the sale shall be deemed to be sale proceeds, to be distributed under the order of the said Magistrate.

132. The Board, with the sanction of the Local Government, may lay down rules for the prompt payment of rewards to officers of such Government and others who have been instrumental in the detection of offences, seizure of illicit articles, or capture of offenders under this Act; and any sum which may have been paid to any person under such rules may be taken into account as a part of the whole of the payment which may be awarded by a Magistrate to such person under this section.

133. Nothing contained in this Act shall be deemed to affect the provisions of Act VI of 1863, the Consolidated Customs Act.

FIRST SCHEDULE.

(See Section 119.)

Know all men by these presents, That we are jointly and severally held and firmly bound unto the Secretary of State for India in the sum of rupees to be paid to the said Secretary of State for India; for which payment well and truly to be made, we jointly and severally bind ourselves, and each of us binds himself and each and every one of our respective heirs, administrators, and representatives by these presents.

Dated this day of 18

Whereas the above-bounden are justly and truly indebted to the Secretary of State for India in the sum of rupees

being the amount of duty payable to the Secretary of State for India at the rate of four rupees per imperial gallon, London proof, for gallons

of proof spirit used in the preparation of dozens of bottles or gallons of cordials and liquors as specified in the annexed schedule manufactured at which the said ha been allowed to remove thence for exportation by sea, subject to the provisions of this Act, without having paid the amount of such duty. Now the condition of this obligation is such that, if the above-bounden his or their heirs, executors, administrators, or representatives, or some or one of them, do and shall, at the expiration of four calendar months from the date of this obligation, well and truly pay or cause to be paid to the said Secretary of State for India, duty at the rate of four rupees per imperial gallon of proof spirit for all or any portion of the above-mentioned which shall not have been then exported by sea, subject to the aforesaid provisions (of which exportation, if any, due proof shall be given) or passed for local consumption on payment of duty, then this obligation to be void, otherwise to remain in full force and virtue.

Sealed and delivered
in the presence of

SCHEDULE.

Description of Cordials and Liqueurs.	Quantity in bottles or gallons.	Quantity of proof spirit.

SECOND SCHEDULE.

(See Section 3.)

PART I.—ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
Act XI of 1849	For securing the Abkaree Revenue of Calcutta.	So much as has not been repealed.
Act XXI of 1855	To consolidate and amend Abkaree law in Bengal.	So much as has not been repealed.

PART II.—ACTS OF THE LIEUTENANT-GOVERNOR OF BENGAL IN COUNCIL.

Number and year.	Subject.	Extent of repeal.
Act III of 1873	To amend Act XI of 1849 and Act XXI of 1855.	The whole.
Act I of 1874	To amend Act XXI of 1855 and Bengal Act II of 1866.	So far as it relates to Act XXI of 1855.
Act II of 1875	To amend Act XI of 1849, Act XXI of 1855, and Bengal Act IV of 1865.	The whole except section 12.

STATEMENT OF OBJECTS AND REASONS.

THE law of Abkaree in Bengal is principally contained in two Acts of the Governor-General in Council, Act XI of 1849 and Act XXI of 1856, the former dealing exclusively with the town of Calcutta and the latter applying to the Mofussil, with the exception of some sections which are in force alike in Calcutta and the other territories under the Lieutenant-Governor of Bengal. To these enactments must be added Bengal Act II of 1876, which made some material alterations in Act XI of 1849 and Act XXI of 1856, and also two short Acts of the Bengal Council, Act III of 1873 and Act I of 1874, containing some minor amendments of the same Acts.

The object of the present Bill is to consolidate the five abovementioned Acts into one enactment, and thus to reproduce in a more convenient and accessible form the law as it now stands.

At the same time opportunity has been taken to remedy some defects pointed out by those immediately concerned in the practical working of the law. By Act XI of 1849 Rs. 16 was fixed as the rate of fine for each seer of opium found in illicit possession of any person, probably with reference to the selling price of opium at the time that Act was passed. The selling price now ranges from Rs. 16 to 27, according to different districts, and it is proposed that the rate of fine per seer should be a sum, to be fixed by the Board of Revenue for every district, not exceeding the selling price of opium in that district. A proviso has been inserted empowering the Board of Revenue to receive appeals direct from orders passed by a Collector, the object being to allow of prompt interference by the Board in cases of necessity. The duty levied on spirits manufactured at distilleries worked according to the English method having been recently raised to Rs. 4, a corresponding alteration has been made in the Bill. Further, the amount of the reward distributed to informers in the case of confiscated opium has been raised from Rs. 1-8 per seer to Rs. 3 per seer.

The 4th November 1876.

H. J. REYNOLDS.

FREDERICK CLARKE,

Offg. Asst. Secy. to the Govt. of Bengal, Legislative Dept.